



AGENDA

June 17, 2024

Comprehensive Financial Plan Presentation
Baker Tilly
5:00PM

Meetings of Standing Committees
Council Conference Room
5:45PM

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL
COUNCIL CHAMBERS/CITY HALL
6:00PM

WebEx Telephone Number:1-408-418-9388
Meeting Number (access code) : 2343 118 8365
Meeting password: dWJqhZUG233

Livestream #1:
<https://mishawaka.in.gov/government/elected-appointed-officials/common-council/>

Livestream #2
<https://www.facebook.com/cityofmishawaka/>

Livestream #3:
www.youtube.com/@cityofmishawaka635

Livestream #4:
@MichianaAccessTV on Facebook

To connect on-line join using Microsoft Lync or Microsoft Skype for Business

Dial: [23431188365@mishawaka.webex.com](https://mishawaka.webex.com/join/23431188365)

1. Call to Order

2. Pledge of Allegiance

3. Roll Call

4. Approval of the Minutes of the Regular Meeting of June 03, 2024 & Special Meeting of May 30, 2024

5. Petitions, Communications, Remonstrance and Memorial

A letter from the City Plan Commission regarding their recommendation from their June 11, 2024 meeting.

6. Report of Special Committee

7. Ordinances on First Reading

P.O. No. 2024-17 Additional Appropriation: **CEDIT**

Repairs and Maintenance

2209-50-436-02	City Maintenance	
	City Hall elevators	\$250,000.00
	Battell Park Band Shell	<u>\$500,000.00</u>
		\$750,000.00

P.O. No. 2024-18 PUD Amendment to allow a Third Drive-Thru Restaurant and reduction of Parking Spaces - Vacant Lot S, of 3625 Bremen Hwy

P.O. No. 2024-19 Annexing and Establishing Zoning as R-1 Single Family - East side of Fir Rd across from Preserve Apartments, extending to Clover Rd.

8. Resolutions

R2024-10 Amending R2023-25 American Rescue Plan Act (APRA)

R2024-11 Adding Miscellaneous Property to the Cit's Acquisition List

R2024-12 Extending the St. Joseph County Housing Consortium

R2024-13 Authorizing State Board of Accounts to Examine Financial Statements Prepared in accordance with GAAP

9. Ordinances on Second Reading

P.O. No. 2024-08 Rezone from C-1 General Commercial to C-10 Filling Station Commercial for proposed Casey's Convenience Store & Gas Station - SE corner of Douglas & Fir Rd.
(Assigned to Land Use Planning Committee)

P.O. No. 2024-14 Transfer:
MVHR to Local Bridge & Road Matching Grant Fund - \$979,500.00
AND
Addition Appropriation:
Local Road & Bridge Matching Grant Fund \$1,959,000.00
(Assigned to Budget & Finance Committee)

P.O. NO. 2024-15 Authorizing Investment of Public Funds
(Assigned to Budget & Finance Committee)

P.O. No. 2024-16 Additional Appropriation of Fund:

APR Coronavirus Local Fiscal Recovery Grant

2403-50-439-05 Grant and Subsidies \$2,000,000.00
(Assigned to APRA Committee)

10. Privilege of the Floor - Non-Agenda Items

11. Unfinished Business

12. New Business

13. Adjournment -

This meeting will be aired via live stream:

An archived version of the livestream video can be viewed on the city of Mishawaka's Facebook and YouTube pages,

<https://www.facebook.com/cityofmishawaka/> and
www.youtube.com/@cityofmishawaka635 and on the Michiana Access TV
Facebook page, <https://www.facebook.com/MichianaAccessTV>

If technology is needed to present, please advise the Clerk's Office by 4:00pm the Friday before the meeting by
emailing: dblock@mishawaka.in.gov or calling 574-258-1616.

Download Council Packet Link:

[https://mishawaka.in.gov/government/elected-appointed-
./officials/common-council/council-agendas-minutes/](https://mishawaka.in.gov/government/elected-appointed-./officials/common-council/council-agendas-minutes/)

At this time, I know of no other business to come before the
Council.

Deborah S. Block, IAMCA, CMO, MMC, City Clerk

The City of Mishawaka acknowledges its responsibility to comply with the Americans with Disabilities Act of 1990. In order to assist individuals with disabilities who require special services (i.e. sign interpretative services, alternative audio/visual devices, and amanuenses) for participation in or access to City sponsored public programs, services and/or meetings, the City requests that individuals make requests for these services forty-eight (48) hours ahead of the scheduled program, service and/or meeting. To make arrangements contact Susan Kile, ADA Coordinator, at (574) 258-1615.

Scan the QR Code to access all Common Council Meeting Agenda's, Packets, and Meeting Minutes.



REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL

June 03, 2024

Be it remembered that the Common Council of the City of Mishawaka, Indiana met in the Council Chambers of the New Mishawaka City Hall and via telephone on Monday, May 20, 2024, at 6:00PM. The meeting was called to order by Council President Gregg Hixenbaugh. All were asked to stand for the Pledge of Allegiance.

Members attending virtually do so by WebEx. Public that attends can participate by WebEx or observe meetings by YouTube or Facebook live. The Council meetings are also streamed live on Michiana Access on Comcast/AT&T U-verse Channel 99.

Clerk Block called the roll.

Present: Mrs. Hazen (P), Mrs. Voelker (P), Mr. Carroll (P), Mr. Banicki (P), Mr. Emmons (P), Ms. Hahn (P), Mr. Mammolenti (P), Mr. Violi (P), Mr. Hixenbaugh (P)
P: Present E: Electronically Participating A: Absent

Also Present: Mike Trippel, Council Attorney

Minutes for the Regular Meeting on May 20, 2024 were approved as received from the Clerk's Office.

Clerk block read the following petitions to the council, who referred them to the City Plan Commission for their recommendation.

Petition No. 2024-07 PUD Amendment to allow a Third Drive-Thru Restaurant and reduction of Parking Spaces - Vacant Lot S, of 3625 Bremen Hwy

Petition No. 2024-08 Annexing and Establishing Zoning as R-1 Single Family - East side of Fir Rd across from Preserve Apartments, extending to Clover Rd.

Clerk Block provided the Presentment of the Annual Operational Report for Local Road, Streets and Bridges; No Action required.

Clerk Block read the following proposed ordinance by title, assigned to a committee and set for public hearing at the next regular meeting.

PROPOSED ORDINANCE NO. 2024-14

**AN ORDINANCE TRANSFERRING FUNDS FROM THE
MOTOR VEHICLE HIGHWAY RESTRICTED FUND OF THE
CITY OF MISHAWAKA TO THE LOCAL ROAD & BRIDGE
MATCHING GRANT FUND OF THE CITY OF MISHAWAKA
FOR THE CALENDAR YEAR ENDING DECEMBER 31, 2024
AND AN ORDINANCE APPROPRIATING ADDITIONAL
FUNDS FOR THE YEAR ENDING DECEMBER 31, 2024**

(Transfer and Additional Appropriation for the Local Bridge & Road Matching Grant Fund)
(Assigned to Budget & Finance Committee)

PROPOSED ORDINANCE NO. 2024-15

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA
AUTHORIZING THE INVESTMENT OF PUBLIC FUNDS
PURSUANT TO IC 5-13-9-5**

(Assigned to Budget & Finance Committee)

PROPOSED ORDINANCE NO. 2024-16

**AN ORDINANCE DECLARING AN EMERGENCY AND
DETERMINING THE EXPENDITURE OF ADDITIONAL
FUNDS FOR THE YEAR ENDING DECEMBER 31, 2024**

(Additional Appropriation for APR Coronavirus Local Fiscal Recovery Grant)
(Assigned to ARPA Committee)

ADJOURNMENT 6:05PM

Deborah S. Block /s/
Deborah S. Block, IAMC, MMC, City Clerk

Gregg A. Hixenbaugh /s/
Gregg A. Hixenbaugh, President

These minutes are a summary of actions taken at the Mishawaka Common Council meeting. The full video archive of the meeting is available for viewing at www.youtube.com/@cityofmishawaka635 for as long as this media is supported.

SPECIAL MEETING OF THE MISHAWAKA COMMON COUNCIL

May 30, 2024

Be it remembered that the Common Council of the City of Mishawaka, Indiana met in the Council Chambers of the New Mishawaka City Hall and via telephone on Monday, May 30, 2024, at 6:00PM. The meeting was called to order by Council President Gregg Hixenbaugh. All were asked to stand for the Pledge of Allegiance.

Members attending virtually do so by WebEx. Public that attends can participate by WebEx or observe meetings by YouTube or Facebook live. The Council meetings are also streamed live on Michiana Access on Comcast/AT&T U-verse Channel 99.

Clerk Block called the roll.

Present: Mrs. Hazen (P), Mrs. Voelker (P), Mr. Carroll (E), Mr. Banicki (P), Mr. Emmons (P), Ms. Hahn (P), Mr. Mammolenti (P), Mr. Violi (P), Mr. Hixenbaugh (P)
P: Present E: Electronically Participating A: Absent

Also Present: Mike Trippel, Council Attorney

Mr. Carroll attended the Special Council Meeting virtually but was unable to participate per state law.

PROOF OF CERTIFICATION OF SERVICE

Mr. Hixenbaugh stated the record would reflect that the City Clerk did serve the email and personally delivered notice of the special meeting to all members of the council as required by law.

Clerk Block read the following proposed ordinance by title and opened the public hearing.

PROPOSED ORDINANCE NO. 2024-13

AN ORDINANCE ESTABLISHING A SCHEDULE OF RATES AND CHARGES FOR THE ELECTRIC ENERGY AND SERVICES RENDERED BY THE MISHAWAKA UTILITIES ELECTRIC DEPARTMENT

Mr. Violi reported the Committee of Budget & Finance recommended this proposed ordinance should be adopted. Upon a second by Mr. Banicki, the motion carried.

Mayor Dave Wood spoke in support of **PROPOSED ORDINANCE NO. 2024-13**. Mayor Wood stated nobody liked to raise rates and he sat in their seats and knew how difficult it could be as he had to raise rates as a councilmember several times, but he would not propose increasing

rates on behalf of the Electric Department without first coming before them and letting them know that he supported it, which he did. Mayor Wood stated this was not unique and the factors out in the market that impacted them and their residents impacted them well at the city and their costs went up and their material got more difficult to acquire when you had supply chain issues and things of that nature and the Council would hear about that that evening but they did not take this lightly and in fact, they had not had a rate increase in this department since 2014. Mayor Wood stated he would defy them to find anything that had not gone up since 2014. Mayor Wood stated they did that rate increase way back in the Tim Erickson days and the Jim Schrader days and in fact, their last rate adjustment was a rate decrease, because when they had things go favorably, they did not want to just sit on the money and they wanted to share that with their citizens, so he thought they were very fair with their rates. Mayor Wood stated in this case, the market changed an awful lot since 2014 and specifically since COVID, the market had changed. Mayor Wood stated they now saw a lot of increased demand, more scarce supply of electric and they had a great partner, Wolverine, who they had a 10-year contract with, and they knew when they would renegotiate this that the start of the next contract was going to be much higher. Mayor Wood stated unlike water, they did not regenerate at their utility, and they had to purchase wholesale and so they knew the market was speaking and prices were going up, so they could either ease into that or we could walk into a wall. Mayor Wood stated in the past, they always tried to ease into things and be responsible and most importantly, be sensitive to their ratepayers which they were absolutely doing with this. Mayor Wood stated they could ignore it, but it was going to hurt worse, so he encouraged the Council to support this, and he thought it was responsible and it was the most responsible thing they could do for their ratepayers. Mayor Wood stated they did not want to put their electric utility in jeopardy and right now, they were 40% less than their surrounding areas and still would be less than their surrounding areas. Mayor Wood stated they had the most reliable utility anywhere you cared to look in northern Indiana, because they invested back into their utility to make sure they were maintaining and dealing with things proactively. Mayor Wood stated he was proud of their utility, proud of their people and unfortunately, they had to raise rates at this time, and he just wanted the Council to know that he supported this as well. Mayor Wood thanked the Council.

Sam Hoag, Wolverine Power Cooperative 10125 West Watergate Road Cadillac, Michigan 49601, spoke in favor of **PROPOSED ORDINANCE NO. 2024-13**. Mr. Hoag began his presentation by going into some history on Wolverine and why they served Mishawaka. Mr. Hoag stated in 2018, Mishawaka was seeking a new supplier, and their incumbent supplier was AEP, and they had an option to exit that contract, executed it and they joined the group that was looking to help them with their new supplier. Mr. Hoag stated they were a nonprofit generation and transmission cooperative out of Cadillac, Michigan and they existed to serve nonprofit utilities like Mishawaka. Mr. Hoag stated they were formed because nonprofit utilities were getting a raw deal from entities that were investor-owned utilities. Mr. Hoag stated they currently were owned by five other nonprofit utilities, and they served almost a dozen other nonprofit utilities similar to Mishawaka. Mr. Hoag stated they won their business in 2018 and it was a five-year contract at the time from 2020 to 2025 and they were elated to be delivering those savings to this community that they all enjoyed, their rate decreases. Mr. Hoag stated within a year, they

extended that contract from 2025 to 2030 because they were able to and it was not sought out in their original request for proposals, but after a year of relationship, it became clear that they could serve them for longer than the original proposal. Mr. Hoag stated their relationship here was based on mutual risk avoidance. Mr. Hoag stated their cooperative utility owned power plants and transmission lines, and they liked knowing that at the end of those lines, there were communities like Mishawaka that wanted to purchase it. Mr. Hoag stated his job there that evening was not to sell them more power or to extend them through a longer period of time, it was simply to provide them options and to let them know where the market was. Mr. Hoag stated as Mayor Wood alluded to, the market in 2030 for power was almost double what it was in 2018 when they signed their original deal, and they were happy to be their service provider then. Mr. Hoag stated they could be serviced by someone else going forward but they had worked out with the utility a path that they could graduate up to that increase without necessarily taking the brunt of it all in 2030 and they were very happy to provide that. Mr. Hoag stated they were in a strong position in this market, and they owned generation in Indiana and very few other entities that would be vying for their business did and they owned long-term generation in Indiana which was why they were able to serve them beyond 2030. Mr. Hoag stated that had been becoming in very short supply and they were there to help support them in what their planning was for 2030 and beyond. Mr. Hoag stated the market had fundamentally changed not in ways that were just up and down like the stock market but the way that entities like his company and everyone else generated power had substantially changed in the last 5 to 10 years. Mr. Hoag stated a power grid powered by coal and natural gas base load generation was becoming more renewable and natural gas peaking generation and it was happening because of regulation. Mr. Hoag stated there was no way around it and they did not make the rules, they just followed them and that was what was driving increases in prices in all of the markets in the future. Mr. Hoag stated the options for Mishawaka was they could absolutely do nothing, and they were happy to provide them the savings currently from then until 2030 and the end of their contract which would be a calculated gamble as the market in 2030 would be roughly double what they were paying currently. Mr. Hoag stated they could also wait for the markets to go up and down and try to time it but there was some risk in that. Mr. Hoag stated one of the risks was that they would have to find another counterparty like Wolverine that would want their business and commence a contract from 2030 on and those suppliers were becoming fewer and further between. Mr. Hoag stated the other thing they lost by waiting was you lost time to smooth, so if your price really would double in 2030, you could take your good news that day and start factoring in steps, which was what they were suggesting doing that evening even though it was absolutely their decision. Mr. Hoag showed a graph that encapsulated much of what the power supply equation was and what the future would look like. Mr. Hoag stated what was being proposed on their side was taking some of the savings that they enjoyed and using them to pay down the future and to stabilize rates for their community for another decade. Mr. Hoag stated they were happy to provide that smoothing for them and they would be elated to continue to be their supplier through 2030 and into the future. Mr. Hoag stated they had a wonderful relationship with Mishawaka, and he was happy to take any questions about Wolverine, the wholesale power markets, what utilities like theirs did in similar situations and he was at their disposal that evening.

Mr. Mammolenti asked, with the market increasing as he suggested, how he was able to maintain and keep the price cost of power at a much lower rate. Mr. Hoag stated energy was a very liquid market, so nobody sold it for less than what it was worth, even Wolverine. Mr. Hoag stated what they did was they owned generation assets in the area, and they could take positions against those generation assets that they knew would ultimately pay for their existence, whereas if someone was speculating, they risked the chance that the market took a downturn on them or went up. Mr. Hoag stated they owned assets they could use to hedge those things and that was what provided the certainty in the long run, so when their community was looking for a supplier in 2018, they were actually being solicited by financial brokers that were willing to take a position in the market and bet that it might be in the money when it came time to serve them and his company did not do that. Mr. Hoag stated they had S&P A-rated credit because they paid their bills and did what they said they would do, and they were very risk averse. Mr. Hoag stated they liked knowing that the assets that they owned had a customer at the end of the day and not ride the crazy market swings.

Mrs. Voelker asked if the contract was extended through 2035. Mr. Hoag stated it was currently through 2030. Mrs. Voelker stated that was right, but wanted to clarify that what he was suggesting was an extension through 2035 and asked if that was correct. Mr. Hoag said yes. Mrs. Voelker stated on the graph he displayed, there was smoothing and then in 2035 it was flat and asked if that was what Wolverine thought the power was going to do and just go flat in 2035 or were there going to be increases and they be right back at this again. Mr. Hoag said no and stated what Wolverine and the rest of the betting market believed was that power would be between that gray area from 2030 to 2035 and the fact that Mishawaka was well below that gray area accounted for the fact that they were taking on proactive increases between now and 2030 and they were applying those to them to keep their power rates down in the future. Mr. Hoag stated that the gray area was where the market believed power would be. Mr. Hoag stated if the market held true, they would be roughly \$15 to \$20 below market because they were taking some of the savings they enjoyed and taking proactive steps to prevent that in the future. Mrs. Voelker followed up on that by asking what the market was going to be like in 2040 and what was going to happen to them between 2035 and 2040. Mr. Hoag stated if he was doing his job correctly, between now and 2035, they looked for another period of time just like this where the market would be in a relative lull and the markets a year and a half ago when Russia invaded Ukraine and there was a big natural gas scare and much of their power generation was still tied to natural gas, they were almost double what they were today and that gray area was off the chart 100+ dollars. Mr. Hoag stated his job as their power supplier was to look for market lulls where it made sense for their two entities to provide extensions to each other and it was a mutually beneficial thing. Mr. Hoag stated to answer her question, between then and 2035, he hoped he came to them with a similar opportunity as that evening if he was doing his job correctly. Mr. Hoag stated he had no idea what the power markets would look like in 2040 and he wished he did. Mrs. Voelker stated she was curious about solar and where they lived, she would think that most of the time they had a Perma cloud that enveloped them in late October, and it lifted around the end of March. Mrs. Voelker asked if this was really an area that could support solar power. Mr. Hoag stated she was talking to someone from Michigan, and they had a permanent cloud

maker to the west in Lake Michigan and believe or not, his full-time day job was developing solar for Wolverine, and they did not do much in the way of sales as they were a pretty small company. Mr. Hoag stated he only came to know Mishawaka he happened to be building a solar project 10 miles north of here when he heard they were looking for power but to answer her question, solar was a wonderful resource for power companies when the sun was shining and it did not work all that well during nights and weekends but the one thing that solar did really well was it married up to cooling loads. Mr. Hoag stated solar tended to produce when the electric power markets were at their highest. Mr. Hoag stated solar was a part of a long-term piece of their overall portfolio but not the entire piece of it. Mr. Hoag stated part of how they served Mishawaka was through some solar generation too.

Mr. Hixenbaugh thanked Mr. Hoag for the information he provided and had a couple of follow-up questions. Mr. Hixenbaugh asked if his understanding was correct that in terms of Wolverine's power generation facilities, there was a renewable energy component of that so that the power they purchased had some renewable energy baked into it. Mr. Hoag stated yes and because they were risk averse, they were never an all of their eggs in one basket company and their power generation consists of some baseload coal and natural gas as well as lots of peaking natural gas. Mr. Hoag stated you would never find that their company got away from their diversity strategy, and they were very conservative. Mr. Hixenbaugh stated although the Wolverine contract was not in front of the council for approval that evening, the rates that were being proposed were intertwined with the contract so since it was his contract he would ask him first about it. Mr. Hixenbaugh stated his understanding was that the contract between Wolverine and the City of Mishawaka allowed their municipal utilities to continue to explore their own renewable energy generation sources, to the extent that they were affordable and scientifically feasible and asked if that were correct. Mr. Hoag stated yes, and they actually made it in their contract that Wolverine's agnostic if they pursued some renewable energy on their own. Mr. Hoag stated while they had to purchase all of their power from Wolverine, if they were to build solar, the performance of that solar against that market would be to your benefit or detriment. Mr. Hixenbaugh asked if that same flexibility in terms of that contractual relationship applied to individual users within the city of Mishawaka, both residential and industrial users. Mr. Hoag stated yes and if the city of Mishawaka wanted to extend solar tariff or a net metering tariff to its citizens, Wolverine was neutral on that. Mr. Hoag suggested not compensating for any energy beyond what their wholesale rate roughly was because then you would have ratepayers subsidizing other ratepayers who may have the means in solar, but there was nothing in their contract prohibiting them from pursuing those things and they designed it that way. Mr. Hoag stated they did not want the wholesale utility to be the reason some homeowners could not put solar in their house. Mr. Hixenbaugh stated he appreciated that, and he appreciated the relationship between Mishawaka and Wolverine. Mr. Hixenbaugh stated it had clearly paid dividends to that point and he appreciated his creativity in bringing it to them and he could understand the logic and rationale for doing this. Mr. Hixenbaugh once again thanked Mr. Hoag and Wolverine for the work that they did on their behalf. Mr. Hoag stated the feeling was mutual and they were a very meaningful part of their business, specifically roughly 15% of their business so they were a very important customer of theirs and they would always have their

attention when they needed it and if he was doing his job correctly, they would be seeing him a few more times between then and 2035 even if it was a somewhat unpopular topic.

Mr. Violi stated hypothetically, if the rates just dropped and the prices dropped was it also something he'd be doing his job to come back and say if they were going to lower the rates. Mr. Hoag stated absolutely, and he would come back and say he remembered in 2024 when they were all absolutely wrong and there was, hypothetically a global recession and power prices were in the dumps then he would say let's take their bad news from 2030 and 2035 and factored into some good news in 2040. Mr. Violi asked for clarification if they had that flexibility. Mr. Hoag stated absolutely, and their commitment to them was always to have a mutually agreeable contract and it was in both of their companies' best interest to change that contract, they work with them. Mr. Hoag stated they really appreciated them in Mishawaka, and they would always have their attention.

Mr. Mammolenti asked over the last 10 years if they had ever filed forced majeure or anything similar to that. Mr. Hoag stated no, and they were rated stable by both S&P and Fitch. Mr. Hoag stated power companies that did not do what they said they were going to do typically did not get to have that luxury and their company was founded by rural farmers and they just did what they said they were going to do.

Jeff Rowe, Baker Tilly, spoke in favor of **PROPOSED ORDINANCE NO. 2024-13**. Mr. Rowe stated he just wanted to give a brief recap of the rate plan that was being proposed and was before them that evening. Mr. Rowe stated the overarching goal of the rate plan was to provide for modest, predictable increases over the next 6 years for 2025 through 2030. Mr. Rowe stated in an effort to generate revenue that was sufficient to meet day-to-day operation and maintenance costs which included the wholesale purchase power contract that they talked about that evening in depth as well as debt service requirements and obligations and future capital replacement costs and what was driving the increase were about four to five things. Mr. Rowe stated the main primary driver was the wholesale purchase power increases and that represented roughly 70% of the overall cost of utility. Mr. Rowe stated that roughly 30% of annual costs represented operational maintenance as well as debt service and capital improvement needs. Mr. Rowe stated they had been in a higher inflationary environment since 2020 and that was certainly a factor and there would be some of the hyper inflation factors that were being applied to substations and other pieces of equipment shared with them later. Mr. Rowe stated there was also the rate reduction back in 2020 that was intended to provide rate relief going through COVID and also sort of offsetting some of the other utility increases at the time so this in part also in effects were rolling back some of those rate relief efforts. Mr. Rowe stated in addition, there were capital needs and there were roughly \$51 million of capital asset replacement needs over the next six years that had been identified and roughly \$11 million of those dollars represented the continued conversion from 4kV to 12kV so that continued to be a high priority and in addition to that, there was roughly \$40 million of capital asset replacement needs that were also a high priority and were being built into the proposed rate structure as well. Mr. Rowe stated in terms of rates, over the next six years per year what was being proposed was a rate increase of 3.75% per year and

that came out on average to be \$4.50 with what they called an average bill, assuming 1,000 kilowatt hours. Mr. Rowe stated that was probably a little bit high and the actual average for the city was probably closer to 500 or 600 kilowatt hours. Mr. Rowe displayed a graph that was used as an illustration of tracking where the customer bill had been, assuming 1,000 kilowatt hours dating back to 2020 and this was prior to the rate reduction and at that time, the monthly bill was right around \$123 per month and they would see that reduction being phased in over two years during 2021 and 2022 which was at the current rate that the city was at. Mr. Rowe stated the rate structure that was being proposed again was that roughly \$4.50 increase starting in 2025 and the graph displayed the slow, steady, modest increase over the six-year period. Mr. Rowe pointed out that the city did not actually get back to the pre-rate reduction rates until 2028 so even with the steady increases, they were still below what customers were paying back in 2020 and the city would not actually exceed that until 2028. Mr. Rowe displayed another graph and stated it was just the rate comparison of across the state of Indiana selected communities and municipalities and utilities to give the public and the council a sense of where the city rated in term of overall electric utility rates. Mr. Rowe stated the \$108 projected in 2025 was towards the lower end in terms of rate comparisons and the state average in 2023 was about \$130. Mr. Rowe stated that he was happy to answer any questions.

Mrs. Voelker asked if they had residential bills for some communities that were closer to Mishawaka to provide information about to the council. Mr. Rowe stated they did and looked at South Bend and they were at roughly \$147 per month and Elkhart was at \$147 as well, quite a bit higher than Mishawaka.

Kevin Wasmer, Mishawaka Utilities Electric Division Manager, spoke in favor of **PROPOSED ORDINANCE NO. 2024-13**. Mr. Wasmer stated he was going to talk about the 4kV to 12kV and wanted to show them what they were talking about when they talked about the 4kV conversion. Mr. Wasmer stated they would start with the past and they just did a \$10 million bond in 2021 and that bond kickstarted the 4kV to 12kV conversion. Mr. Wasmer stated they started off with one substation and they upgraded it to 12kV and that would be taking place out of two substations once it was completely converted over. Mr. Wasmer stated the transformer was up and running and the substations had been installed and they were still in the middle of converting everything downtown at that point in time. Mr. Wasmer stated they had also upgraded 427 transformers from their 4kV to the dual voltage transformer and that was necessary for them to go through, make all of their changes on the at the 4kV level on the dual transformers and then, once they were ready to click everybody over, they had internal switches. Mr. Wasmer stated they would take outages at night, they would communicate with customers, and they would start switching them over to the new updated voltage. Mr. Wasmer stated in the fourth quarter of 2022, the cost for transformers skyrocketed from 40% to 400% and it was not every single transformer, but the majority of the larger transformers which were utilized downtown with a lot of factories were the ones that went up pretty high. Mr. Wasmer stated inventory costs had gone up as well because of long delivery times and they were having to order a larger amount of transformers, so they were able to order maybe a dozen a year and planned on putting them out in the field, well now they had to kind of plan a year and a half to two years out

because the delivery times had gone out so far. Mr. Wasmer began discussing three phase transformers and stated they went from 112 to 2500 size transformers with the 112s to the 7560s being used for everyday restaurants, for reference. Mr. Wasmer stated 750s and above would be for factories or newer buildings down in the ironworks. Mr. Wasmer separated the transformers into three groups with their estimated delivery date and costs that followed. Mr. Wasmer stated 2022 was the last year they actually ordered transformers due to the delivery time. Mr. Wasmer stated they had a lot on order that had not shipped just yet so that was why the dates went back to 2021 and the very end of 2022 as they had not ordered any since that time. Mr. Wasmer next pointed out the pricing in all of the groups and stated the largest transformers used to cost what the smallest transformers were costing them now and with the conversion project and how many transformers they would have to change out, that was why they were there asking the rates to be changed in order to help supplement all of the costs. Mr. Wasmer stated single phase transformers were not as high, but they did go from 40% to 74% which may not seem like a lot, but they were talking about large numbers of transformers, 200 to 300 ordered at a time and when you doubled the cost it added up quickly. Mr. Wasmer displayed a map of the electric grid overview by voltage for Mishawaka. Mr. Wasmer showed the 12kV primary wire was displayed as blue, stretching for 208 miles and the 4kV primary wire was displayed as green, stretching for 166 miles. Mr. Wasmer stated 12kV was the updated latest voltage that everybody tended to use for most cities and 4kV was outdated. Mr. Wasmer stated their intention was to replace the 166 miles of 4kV with 12kV. Mr. Wasmer showed a display mapping out the types of transformers (4kV, 12kV and dual voltage transformers) in Mishawaka. Mr. Wasmer stated they had 1,587 transformers running on the 12kV system, 1,228 transformers running on the 4kV system and 935 dual voltage 4kV/12kV transformers. Mr. Wasmer stated there were 427 transformers he talked about earlier that were part of the \$10 million bond, and this was what they had changed out currently. Mr. Wasmer stated they had 1,228 transformers that had yet to be upgraded to 12kV and they came together to figure out what would be the best way to get everything built in a timely manner and not to spend \$20 million in one day because he could not order that much equipment. Mr. Wasmer stated if you were to divide it into 300 transformers a year and if they could keep on track, which was their goal, and it would be in a fifteen-year window. Mr. Wasmer stated he would like it to be shorter if they could but with current delivery times and everything else, that was what they were looking at. Mr. Wasmer stated the traditional 4kV to 12kV was what they wanted to do but moving forward with the strategic rate increase approach, they thought this was the best way to go without putting the biggest burden on the ratepayers, stretching it out over a long-term period instead of one big increase at one time. Mr. Wasmer provided the council with a 204 Mishawaka Electric Division usage breakdown and stated the average was usually 1000 kilowatt hours with what was used for pricing but in Mishawaka, they currently had 25,000 residential customers, 11% or 2,700 of the customers, were 1000 kilowatts or more a month. Mr. Wasmer stated 20%, 7,032 customers, used between an average of 500 to 1000. Mr. Wasmer stated that the majority of their residential customers was going to be 61%, 15,385 customers, used less than the 500 kilowatts per month. Mr. Wasmer stated that was what they had figured out since the prior week after talking and they wanted to get some better numbers on where that range was at. Mr. Wasmer next wanted to touch on solar and recover some of the talk about the stuff that they had in place currently. Mr. Wasmer stated Sam from

Wolverine did already talk about what was in their contract so it was something that they could currently do and do in the future. Mr. Wasmer stated their existing Wolverine contract as well as the new proposed extension to 2035 did allow them the ability to explore behind the meter generation with solar, wind or battery storage. Mr. Wasmer stated while today they were looking to extend their current purchase power contract with Wolverine, they had an open mind to these types of renewable energy generators, should they become a more economical solution for the electric division in the future, so they were not forgetting about it and not saying they could not do it right now but it just was not the best solution for the utilities today. Mr. Wasmer stated today, they serviced just over 28,000 commercial and residential customers combined and they had a total of 10 customers currently that had installed either solar or wind generation on their property and had what they called net metering accounts. Mr. Wasmer stated customers looking to install solar or wind generation were required to fill out an interconnection agreement application prior to the system being installed. Mr. Wasmer stated this kind of service required a unique style meter called net metering and the meter was designed not to record backwards when the customers were using solar, or wind and it only recorded forward rotation. Mr. Wasmer stated he was happy to answer any questions they had.

Mrs. Voelker stated in her district, there was a property that generated power through solar panels and if she recalled, a number of years ago prior to them changing to Wolverine from AEP, the city was not allowed to take extra power from that property into their system by contract and asked what their policy was with the 10 customers. Mrs. Voelker also asked if they were generating more power than they needed if they could sell the power to the city. Mr. Wasmer stated that was kind of why they had the meter on there and whether you were using it or not using it, say if you were on vacation and it was running all day, you would only be billed from the utility company if you were using their utilities, so the savings would be if you had the means to purchase the price of these and install it, he recommended 23 KW per house. Mr. Wasmer stated what you would want to do was get a system built or purchase a system that gave you the energy for your home and not necessarily three or four homes, because you did not get a credit. Mrs. Voelker stated it sounded to her from Mr. Hoag that they could buy extra power and asked if she was incorrect in that. Mrs. Voelker stated it sounded to her like they had the ability to buy solar power from other entities if they were willing to explore it so if she had extra power generating from her property, she asked why she would not be able to sell it to the city. Mr. Wasmer stated other utilities, from his experience and what he understood, did not actually purchase it but you got credit, but that would be an ordinance that would need to get figured out and figure out how much credit that would be and if it wouldn't be just a flat rate. Mr. Wasmer stated it actually could be a flat rate, but the cost would have to be settled. Mrs. Voelker asked if that was something that they as a city should explore and asked given their contract through Wolverine, should they extend that contract then it sounded like that would be an opportunity for them and since they had citizens in Mishawaka that were interested in doing that, that would be an incentive for citizens to provide their own power. Mr. Wasmer stated they could revisit it again and there was no reason why they couldn't look into it. Mr. Wasmer stated he could have a study done. Mrs. Voelker thanked Mr. Wasmer.

Mr. Violi stated he believed Mr. Wasmer said that given the rate adjustment, it would take 15 years to implement everything 12kV. Mr. Wasmer stated for the conversion. Mr. Violi asked what if they did not do that and how many years would he project that would take if they did not do it. Mr. Wasmer stated two to three times.

Mr. Mammolenti stated he had given them the residential comparison to some of the neighboring cities in the area along with the state and asked if he had, with this proposed increase, how they would be compared on the commercial side of things and the commercial rate. Mr. Wasmer stated he did not have anything in writing regarding the commercial rate. Mr. Mammolenti stated he was just curious to see how that would stack up and if it would be a deterrent or be business friendly. Mr. Wasmer stated from his own investigating, because he was using all of the utilities their size since they were the second largest in the state of Indiana and kind of compared to the top five and he could tell him that the commercial rates were definitely a lot higher.

Mrs. Hazen asked if he had any clue what their average kilowatt usage was for the average business customer. Mr. Wasmer stated no he did not, and he believed that was why everyone used residential, because residential was flatter and since they were majority residential, it was an easier target number because it was a low number.

Mr. Violi stated to be clear, because he spoke for himself and believed he spoke for his fellow councilmembers, the middle of the city was traditional and older residential areas and those were all 4kV still and he said there were two substations they had already taken care of and five substations that they still had to take care of. Mr. Wasmer stated yes, there were still five substations left. Mr. Violi continued that they were going to be sure that if they did this rate increase that the plan would go far and they would not divert any funds to stay away from the goal to get everybody in Mishawaka because it was important to him that they said they could use this as infrastructure development for their older residential neighborhoods. Mr. Wasmer stated yes, and it was a benefit to the utility company as well and upgrading the downtown area, with the cutoff being from the south of the river to Dagoon, a majority of it would be in the center with it being your 4kV area. Mr. Wasmer stated they had substations in the area that would utilized and help down there if need be since they were on the 12kV surrounding them and north of the river, they could not utilize that so once they got them all on one 12kV system, you could go a lot further with it and they could use other substations to help out that they could not use now to help out if there was a situation. Mr. Violi stated one thing that concerned him and all of the council was that they were proud of their electric department and they were great and he did not want to turn into a city where they had days when they did not have service and he just wanted to make sure that was the plan to upgrade all of the services and they would stick to that plan. Mr. Violi stated to him, the infrastructure was an important factor. Mr. Wasmer stated he thought everything else with the city and the rest of their existing developments they had plans and still used those plans and this was a new plan to take care of the rest of what was in the middle. Mr. Violi thanked Mr. Wasmer.

Mr. Banicki asked as the city grew and other businesses came to the area, were they prepared to supply the new partners, whether it was the Penn farm people and as the city grew with the 12kV, were they going to be okay. Mr. Wasmer stated the current growth in the area obviously

was not right there downtown so yes, to a certain extent meaning they were kind of limited there as an electric division and a law was passed in 2015 where when city properties were annexed, they were not automatically included in the annexation and had to request that and to this day, they had been denied so there was growth and availability there. Mr. Wasmer stated as they got further along and found an area, they would work with Wolverine and let them know they would be increasing power as well as the AEP letting them know they would be looking to increase the substations.

Mr. Emmons stated that Mr. Wasmer mentioned earlier in his presentation about expanding the 12kV to Logan and asked if that was where they were at and if they planned to go further. Mr. Wasmer stated that was the next substation on their list and the first one was right downtown with the new development there and since it was commercial, it was a little heavier of a load to take care of and they wanted to get that going first. Mr. Wasmer stated Logan would be the next one, so it was a Logan substation, but it was basically all of the west side of town. Mr. Emmons asked if that would enable them to expand to the southwest of the city. Mr. Wasmer stated that was correct.

Mr. Hixenbaugh thanked Mr. Wasmer for the information and wanted to follow up on the whole concept and the rationale and why it was important for them to move from 4kV to 12kV and what he understood was with regard to the 4kV equipment, that was 1950s technology that was now ever more difficult to replace when there was a need to replace it and asked if that was correct. Mr. Wasmer stated that was correct and it was not very common in a lot of utilities so getting it and ordering it was a lower priority. Mr. Hixenbaugh stated if he extended that thought out, if it was more difficult to find replacements for the 4kV equipment, then when they had to replace it, it could lead to the potential of extended outages and disruption in service and asked if that was accurate. Mr. Wasmer stated that was correct. Mr. Hixenbaugh stated with regard to 12kV, the advantage to that was not only a broader market with regard to equipment and replacements but it was also a more efficient way for their electric department to deliver electricity to their users and asked if that was accurate. Mr. Wasmer stated that was accurate and the 12kV reached further so they could get to substations that were not in the area and had lower amperage as well as long term on their demand charges. Mr. Wasmer stated there would be cost savings once they go from the 4kV to the 12kV. Mr. Hixenbaugh stated it sounded more cost effective to have 12kV service it sounded like and it was more reliable for the areas of the city that did not currently have the 12kV service, the primarily older residential neighborhoods would have a cost effective and a reliable delivery service for electric if they were able to make the transition. Mr. Wasmer stated that was correct.

Matt Lentsch, Executive Director of Development and Governmental Affairs for Mishawaka, 100 Lincolnway West, spoke in favor of **PROPOSED ORDINANCE NO. 2024-14**. Mr. Lentsch stated he was not just someone who worked for the city, but he also lived in the city and paid the same rates everyone else did. Mr. Lentsch expressed his heartfelt thanks to the council for taking time to be fully informed and educated in the Mishawaka Utilities Electric rate plan. Mr. Lentsch stated their willingness to engage in additional meetings had been invaluable and the process had been effective. Mr. Lentsch stated it had been a pleasure to work with them and they deeply valued the partnership they had. Mr. Lentsch stated at its core, the rate plan was a comprehensive financial management plan effort designed to ensure sustainability for years to

come. Mr. Lentsch stated as they closed that evening's presentation, he wanted to highlight some important information regarding the Mishawaka Municipal Electric rate plan to further enhance the council's understanding and their understanding of the proposed adjustments and their impact on customers. Mr. Lentsch stated it was important to know that Mishawaka Utilities Electric had not raised rates since 2014 and they did a proactive decrease of 7% in 2021 and 2022. Mr. Lentsch stated even with the scheduled increases of 3.75% per year for the next six years beginning January 1st, 2025, Mishawaka Utility Electric ratepayers would only be back paying 2020 rates by the beginning of 2028. Mr. Lentsch stated despite the modest increases, Mishawaka Utilities Electric remained one of the lowest municipality electric utilities in the state of Indiana, demonstrating their commitment in providing affordable and reliable services to their customers. Mr. Lentsch stated these adjustments were crucial for maintaining the integrity and reliability of their electric utility infrastructure ensuring they could continue to provide high quality service to their community and he would say last year for the whole year, they only had 15 collective hours where the electricity went off and he challenged anyone to find that in any utility throughout the state. Mr. Lentsch stated addressing increasing costs associated with capital asset investments, energy procurement, maintenance and operational expenses, they could sustainably support economic growth and enhance the overall quality of life in Mishawaka. Mr. Lentsch stated please know that the Mishawaka Utilities was committed to responsible financial management and the long-term sustainability of their electric utility. Mr. Lentsch stated to him, truly, that was what it was all about, and they had a great thing and he believed Mishawaka Utilities across the board was a tremendous asset. Mr. Lentsch stated their collective budget was over \$100 million and \$60 million of that was Mishawaka Utilities Electric. Mr. Lentsch stated the recently proposed ordinance would enable them to meet all of the needs of the community and uphold their commitment to providing quality services to their residents. Mr. Lentsch stated the electric rate reflected their commitment to responsible financial management, sustainable operations and customer satisfaction. Mr. Lentsch stated with their continued support and dedication, they could effectively navigate the adjustments and uphold the mission of Mishawaka Utilities. Mr. Lentsch appreciated their efforts and their attention to this additional information, but he believed that together they could ensure a bright, sustainable future for their community. Mr. Lentsch asked for the council's support that evening and was happy to answer any questions.

Mr. Mammolenti thanked Mr. Lentsch for his presentation that evening and in the past and thought he covered a lot of questions they had that evening through some other presenters and stated they had discussed a drive thru or drop location that he, along with many other residents had utilized in the past and he knew he looked at some options and just wanted to follow up with him that evening to see if they came to any conclusion. Mr. Lentsch stated they obviously had a great asset there and a wonderful business office and there were about 10 ways for people to pay for their utilities and 6 or 7 of them cost nothing, like using the kiosk or a stamp in the mail for example. Mr. Lentsch stated as it related to drop off, they did look at both options there and they were limited because of the building but they also looked at using a Mishawaka Utilities Water Division on Jefferson and there was really no good way, and it was the same with Electric and Wastewater. Mr. Lentsch stated in conversations with Dave Majewski, their Water Manager, he was proposing to build a kiosk that would sell water that people could drive up to and get water using a credit card and it was a real option he had discussed with Dave and people could use that to drive up and fill up a water tank and go fill up their swimming pool or whatever they would

need but they would have the option there once the kiosk and water station would be available. Mr. Lentsch stated that was something a couple of years or so down the road, but he thought that had the greatest possibility of having a solution to what Mr. Mammolenti had talked about. Mr. Lentsch stated the old building did have a drive-up people could go to and drop it in and that went away a while ago once they transitioned there, but that was the plan at that point. Mr. Mammolenti asked if it would be possible to establish a partnership perhaps with the post office downtown to put a box there right adjacent to one of their mailboxes or anything similar to that. Mr. Lentsch stated they would be open to looking at other partnerships that would allow customers convenience, absolutely. Mr. Mammolenti stated he looked forward to furthering that discussion moving forward.

Mr. Violi asked about the ACH debit and asked if that option was available on the website currently where you could set it up with his own bank to draw it out without a charge. Mr. Lentsch stated at the current point, they charged fees on credit cards and debit cards and had to get to that point with a service fee they took in, however if they set it up directly with their bank there was no charge or came directly to their office with a voided check, they could set it up without costing that fee. Mr. Violi asked if he would come in with a voided check and then went to the office there and on the 15th of the month, it would not cost him anything and asked if this was an option on the website currently. Mr. Lentsch stated he would check and if it was not there, they would add that. Mr. Violi asked about looking for a senior citizen discount going forward. Mr. Lentsch stated as he said with Councilman Mammolenti as it related to the drive thru, these were options that they could definitely look at. Mr. Lentsch stated currently, their rates were such that it was even across the board and the increase would affect their residents and businesses in the same percentage but at that point with the rates, where they were and the fact that they wanted to become more sustainable, while they considered that, it was not the right opportunity for them at that point but it would be something that they would take into consideration.

Mr. Banicki stated if they got to the point where they got tired of the electricity and wanted someone else to supply it like Duke, Nipsco or anyone like that, they could do that but the downside of it was that would be that they would not have control on rates, no control on repair times and things like that. Mr. Banicki stated they had done such a great job of trying to keep this within reason. Mr. Banicki stated years ago they had a double digit increase and it really stung, and the people of the city did not understand why it was done. Mr. Banicki stated they just kept putting off the small increases and then it led them to this. Mr. Banicki asked what his thoughts were on how things would be going if they had to just shut it down. Mr. Lentsch stated he thought Mishawaka Utilities overall was a great asset to the community and most municipal utilities were far superior in their service and rates than a Duke Energy or an AEP and if you looked at surrounding areas, Elkhart, South Bend, or Granger, they were paying 42% more at that point. Mr. Lentsch stated they did not do the preventive maintenance like they did and did not have the duplicative feeds they did so a lot of reasons for the great service was that people lived there that worked there and they were a nonprofit utility and they were not beholden to shareholders, rather stakeholders and their stakeholders were their ratepayers. Mr. Lentsch stated their folks lived there, worked there and they provided excellent service and there were no business offices for AEP or Nipsco and that was all done by phone or mail or online. Mr. Lentsch stated he would enthusiastically argue against ever getting to that point and all of the

utilities did a phenomenal job serving their residents and communities and Mishawaka Utilities was one of the greatest assets they had for them. Mr. Lentsch stated the rates were great, dependability was there, and they were there that evening to talk about sustainability. Mr. Lentsch stated as they had talked with AEP and others about getting territory now that they had to negotiate, they just did not want to give it up. Mr. Lentsch stated it behooved them to not just maintain but to continue to do what they did in Mishawaka to make things as great as they could, because they had hometown services serviced by hometown folks and they did it in the best way possible. Mr. Banicki stated as a residential and commercial customer, he greatly appreciated everybody involved there today and thanked Mr. Lentsch.

Mrs. Hazen stated she understood the need to increase the rates and she heard nothing but good about Wolverine and that they were a wonderful company, but she asked if they looked at other options for the kV upgrade as far as creative funding instead of requiring that additional increase. Mr. Lentsch stated in the past they bonded \$10 million for a major portion, two sevenths of the conversion and they were coming to the end of that but they had looked at multiple options and they did not feel like taking on more debt was the solution there and even if they did, they could not buy the equipment fast enough to meet the obligations of the bond. Mr. Lentsch stated they looked at a number of different options and they believed that this was the most economical, efficient and effective way to fund both the purchase power as well as infrastructure improvements. Mrs. Hazen asked if he knew how much they had left in ARPA funds and if they considered using that at all. Mr. Lentsch stated ARPA funds had limitations and he could not speak to those limitations, but he was not sure if they would have been the right choice to be used in this way. Mr. Lentsch stated they had been used to do projects all over the city and to help nonprofits and the council had been part of deciding where those ARPA funds would go but from his understanding, they used it in the best possible way to advance the city but he was not sure that would be the best thing for Mishawaka Utilities and what they were talking about that evening.

Mr. Mammolenti stated he had been hearing about the six to seven free ways to pay for utilities for their ratepayers and residents and he had been hearing that for a couple years, yet he did not make the initiative himself to make those efforts and still walked up the ramp and dropped off his bill. Mr. Mammolenti stated he knew they had discussed it briefly in the past, but asked if anyone would be willing to hold potentially a 2 hour workshop where they had laptops ready at tables in the Utility Office where residents could come in, bring the information they asked and walk them through getting set up there. Mr. Lentsch stated they had talked about that and he had talked with the manager of the Business Office and if they could host it, they would welcome the opportunity to set something like that up to provide their residents with some more education and talk to them about options and have individuals there that evening to help them set up different options to pay. Mr. Mammolenti stated that it was great to hear that he and the office were willing to do that, and they would keep in contact and try to settle a date and a time for an evening and if it went well, it could be extended to another time. Mr. Mammolenti thanked Mr. Lentsch.

Mr. Hixenbaugh thanked Mr. Lentsch for the information and appreciated his willingness to work with Mr. Mammolenti and Mr. Violi on the issues they raised and from his perspective, although he appreciated his creativity with regard to the drop off option, two years sounded too

long to him and he asked him to try to identify other options that would provide a short term, more immediate solution to that issue. Mr. Lentsch promised that they would continue to look at partnership options and other options. Mr. Hixenbaugh thanked Mr. Lentsch.

Michael Compton, former Mishawaka Common Councilman, 1530 South Lakeshore Drive Mishawaka, spoke before the Council. Mr. Compton stated he was not going to speak in favor or against the rate increase but he wanted the council to know that as he listened to the great comments and the presentations, they had questions that were excellent. Mr. Compton wanted to commend the new council members as they had excellent questions, and he was convinced they would make the right decision for the ratepayers of Mishawaka, and he was convinced of that after listening to all of them. Mr. Compton stated, as often happens after listening last week and listening that evening and talking to people from the city, his thoughts and comments had changed a little bit from what he initially intended to say. Mr. Compton stated he would like the council to look at the possibility of producing their own power. Mr. Compton stated what they heard that evening was 70% of their electric cost was in power costs and that was the only place they could do anything to help the citizens of Mishawaka. Mr. Compton stated they could either produce their own, which there was a cost to that, or they could promote home solar use. Mr. Compton stated it sounded like they had 10 residents using it and asked rhetorically why they did not have more than that in a city of more than 50,000. Mr. Compton thought that promoting that as a way for a citizen to save money was something that the city could do that would not cost them anything and it could help the ratepayer individually. Mr. Compton stated as far as how power was bought back and whatnot, there were state laws that defined all of that and they did not lean necessarily in the users favor. Mr. Compton stated it could save an individual money who took the time and effort to do that. Mr. Compton stated as far as a solar field for the city of Mishawaka, he asked that they push for a feasibility study and he did not know whether it made sense or not to allow Wolverine and people who did this as a business to do that and they bought that from them. Mr. Compton stated his mind said diversity was the best thing and if they could produce 10% of their own power, that much of a savings they could supply back to the customers after it was paid off and those were the questions with property costs, material costs and what was payback time but those were what studies did and he asked that they did that. Mr. Compton commended them all for what they were doing and the questions that were asked and it was very much appreciated as a ratepayer.

Ken Prince, member of the Utility Board and Executive Director of Planning and Community Development for Mishawaka, spoke before the Council. Mr. Prince stated he was not speaking as a member of the Utility Board, but he was a resident of the city and lived at 2301 Ridge Place. Mr. Prince stated he had a unique insight into the information provided and he believed this was the most cost-effective way to provide power long term to the residents at the best price. Mr. Prince stated as a ratepayer, his family and protecting their interests, they believed this was the long-term best solution for the city. Mr. Prince stated in response to Mr. Compton, they did do a study when the new City Hall building was constructed about putting solar panels on the roof and that study indicated that the payback was over 35 years relative to the installation, so in their estimation that it would not have paid for itself likely needing to be replaced at the end of that time. Mr. Prince stated from an economic standpoint, it did not make sense and he knew there were other reasons to do solar than just straight economics but that was the reason.

Mr. Mammolenti stated as the Mayor stated at the beginning of the meeting, it was never easy to raise rates and he had been personally mulling it over for several weeks and the simplest he could put it was that they were making a great product even greater and at a low cost of averaging \$2 to \$4 per month and he thought as a group and as a body, they owed it to their citizens and their ratepayers to provide the best service possible and he thought it was very difficult to find anyone that complained on their electric service and other utilities, but particularly their electric. Mr. Mammolenti stated Mr. Lentsch had mentioned 15 hours of total outage for the last year and that was pretty amazing, and it would be great if they could improve upon that, and he believed they owed that to their ratepayers and citizens. Mr. Mammolenti stated with all the information that they had received and the mere simple fact of making a great product greater, he would be voting in favor that evening.

Mrs. Voelker stated she wanted to reiterate what Mr. Violi said about the older parts of their city needing to have attention paid to it and many of them lived in the older housing portions of their city and it was time that they made sure they invested in the heart of their city as much as they invested in the new areas of their city. Mrs. Voelker stated she saw people that lived near here who did not have the new stuff and they had the old stuff and she thought it was important that the older parts of their city had the same benefits as the newer parts. Mrs. Voelker stated she appreciated the consistent service that their electric utility provided them, but from her perspective she wanted the older parts of the city brought up to meet the newer parts of the city.

Mr. Banicki thanked Mayor Wood, the Administration and all of the partners involved as there was a lot of information that they had seen and had to make some decisions that not only affected everyone in the city, but all of them on the council as well as they were all citizens of Mishawaka too. Mr. Banicki stated sometimes you just had to use common sense and common sense told him that this was very fair and reasonable when you looked at the world. Mr. Banick stated if they could lock this in, there would not be as much of a gamble, and he thought they needed to lock this in. Mr. Banicki thanked everyone involved and would be in support of this.

Mr. Hixenbaugh echoed the comments of his colleagues and stated he also would be supporting the proposed ordinance that evening for at least three reasons. Mr. Hixenbaugh stated first of all, he agreed that Mishawaka Municipal Utilities and in particular their electric service, did a fantastic job and anyone who questioned the reliability of their grid, you could talk to friends, families and neighbors who lived out in St. Joseph County and compare those outage statistics and also look at the cost and he thought you would be very pleased to live within the MMU service area. Mr. Hixenbaugh stated none of them liked to raise rates, himself included and he appreciated the fact that his colleagues had subjected the proposal to an appropriate amount of scrutiny and he echoed Mr. Compton's comments and had been really impressed with the quality of the questions throughout this process and he thanked them for all of that. Mr. Hixenbaugh stated going back to his earliest days sitting on the Council, he had been a proponent of gradual rate increases and they had lived through some times where they had raised utility rates double digits or more and his concern had always been that it was extremely difficult for not only their residential users, but their commercial users as well to incorporate within their budgets those type of larger increases. Mr. Hixenbaugh stated nobody wanted to pay more, but they paid more as individuals for virtually everything they consumed in the world today. Mr. Hixenbaugh stated if they had to raise rates, and he believed that they did, he would much rather have it be in the

neighborhood of 3% as opposed to 30%, which he feared would be the case if they tried to kick this can down the road and waited until later to address the issue. Mr. Hixenbaugh stated he was also compelled by the fact that their ability to be able to purchase power through 2035 at a significant discount from the market was a good bet. Mr. Hixenbaugh stated he was not much of a gambler, but this felt like it was not a gamble, but it was a way for them to avoid having to gamble on the volatility of the market. Mr. Hixenbaugh stated and finally, one of the most important factors to him was that investment they were going to be making in their older traditional neighborhoods. Mr. Hixenbaugh stated if you looked at the maps Mr. Wasmer was kind enough to provide them with, it was the people who paid utility rates in the city of Mishawaka since they first started who were waiting for the 12kV service. Mr. Hixenbaugh stated he was very desirous of them continuing the process of providing those people with the reliable, effective power that they deserved to have. Mr. Hixenbaugh stated to that end, as much of a selling point it was in his mind and it sounded like to his colleagues, he was going to ask their utility leadership to provide them with regular updates with regard to the status of the build out of the 12kV power grid and his hope would be that the commitments that were being made that evening were going to be held in the future and he was confident that they would be. Mr. Hixenbaugh stated as Mr. Violi mentioned at the information session and as he had mentioned, he thought that this proposal, although he planned to support it, had reiterated the need for them to continue a conversation with the Administration about this Council's role as the fiscal body and the legislative body and the day-to-day operations of their municipal utilities. Mr. Hixenbaugh stated they had a good working partnership and they had a service that was being delivered very effectively, but he looked forward to continuing to have that discussion about how this Council could play a more direct role in the oversight and the accountability that the community demanded with regard to their utility service.

Question was called for at 7:32PM for **PROPOSED ORDINANCE NO. 2024-13 Motion passed by unanimous roll call vote (summary: Yes = 8).**

Yes: Mrs. Hazen, Mrs. Voelker, Mr. Banicki, Mr. Emmons, Ms. Hahn, Mr. Mammolenti, Mr. Violi, Mr. Hixenbaugh. The proposed ordinance passed 8-0, thus it became **ORDINANCE NO. 5888.**

Mr. Hixenbaugh stated at that time, given it was a special meeting, there was no other business that could come before the Council, and he called for adjournment. Mr. Emmons moved the motion; Mr. Violi seconded the motion, and the Special Council Meeting was adjourned.

ADJOURNMENT 7:33PM

Deborah S. Block /s/
Deborah S. Block, IAMC, MMC, City Clerk

Gregg A. Hixenbaugh /s/
Gregg A. Hixenbaugh, President

These minutes are a summary of actions taken at the Mishawaka Common Council meeting. The full video archive of the meeting is available for viewing at www.youtube.com/@cityofmishawaka635 for as long as this media is supported.



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT
Kenneth B. Prince, ASLA, AICP, Executive Director

June 12, 2024

Deborah S. Block, IAC, MMC

JUN 12 2024

City Clerk
Mishawaka, IN

Honorable Members of the Common Council
City of Mishawaka, Indiana

RE: Plan Commission Recommendation
June 11, 2024, Public Hearing

Honorable Members:

A regular meeting of the Mishawaka Plan Commission meeting was held on the above date at which time the following petitions were considered:

PETITION #24-07 A request submitted by WEN 14175 Bremen LLC requesting a Planned Unit Development (PUD) Amendment to allow a third drive-thru restaurant and reduction of parking spaces for the vacant lot located south of 3625 Bremen Highway.

The Commission, with a vote of 8-0, recommended approval.

PETITION #24-08 A request submitted by Robert P Loudin Revocable Trust requesting to annex and establish zoning as R-1 Single Family Residential for property located on the east side of Fir Road, across from The Preserve Apartments, extending to Clover Road.

The Commission, with a vote of 8-0, recommended approval.

Respectfully,

Donna Burkart

Donna Burkart, Administrative Planner
Secretary, Plan Commission

STAFF REPORT

Location: South of 3625 Bremen Highway
Part of the Gateway Plaza – Bremen Highway PUD

June 11, 2024

Petition: 24- 07

Prepared By: CH

GENERAL INFORMATION

Applicant: WEN 14175 Bremen LLC / Watermark Engineering

Status: Property Owner / Site Design Consultant

Request: Amend a part of the Gateway Plaza – Bremen Highway Planned Unit Development to allow a third restaurant with drive-thru facilities and parking reduction

Zoning Classification: S-2 Planned Unit Development District / Permitted C-1 General Commercial uses, multi-tenant commercial buildings, self-lock storage facilities, and two restaurant with drive-thru facilities

Lot Size: 1.41 acres

Applicable Regulations: Section 137-671 to 137-679 / S-2 Planned Unit Development District (Ord. 5057) & Section 137-41 / Amendment to Zoning Ordinance & Zoning Map Indiana Code 36-7-4-603

SPECIAL INFORMATION

Area Development Pattern: North: S-2 Planned Unit Development District (Restaurants with Drive-Thru / Wendy's & Taco Bell)
South: S-2 Planned Unit Development (Residential / Permitted for C-1 General Commercial Use)
East: C-1 General Commercial (Credit Union / United Federal Credit Union)
West: Unincorporated St. Joseph County (INDOT & All Access Storage Access Road, and Single-Family Residential)

Thoroughfare: Bremen Highway, Meijer Drive & Veldman Drive

School District: Penn-Harris-Madison School Corporation

Township: Penn

Public Utilities: All utilities are available and/or will be extended to/throughout the site at the developer's expense.

Comprehensive Plan: General Commercial

ANALYSIS

The applicant, WEN 14175 Bremen LLC, is requesting to amend a part of the Gateway Plaza – Bremen Highway Planned Unit Development (PUD) to allow a third restaurant with drive-thru facilities parking reduction to 24 spaces for a Starbucks.

The 1.41 acre site proposed for multi-tenant commercial development is currently vacant and was recently subdivided as the Wendy's restaurant to the north was developed.

Per the original PUD regulations (Ordinance 5057), permitted uses within the overall 16.8 acre PUD were limited to C-1 General Commercial uses, multi-tenant commercial buildings, self-lock storage facilities with no outside storage restricted to an 8.3 acre area south of high tension power lines adjacent to the U.S. 20 bypass, and one restaurant with drive-thru facilities. A PUD amendment in 2022 (Ordinance 5825), allowed a second restaurant with drive-thru facilities, automobile repair shop, waive requirement of written approval of all property owners within the PUD, reduction in parking spaces, and the use of fiber cement board as an approved material.

Due to the recession in the late 2000s and difficulty in assembling the individual properties, the 16.8 acre property has not been able to be developed as a cohesive development as originally envisioned. When approved, there were six homes within the PUD. Only three single-family homes remain within the PUD boundaries. The home to the west is owner-occupied. The two houses to the south are owned by KLT Properties the developer of the All Secure Storage facility to the south. One was damaged by fire and is uninhabitable, but the one to the south at 3717 Bremen Highway was recently purchased and the intent is not known. This site will be subject to the required 6' high fence and landscape screening between the commercial site and the remaining adjacent residential uses.

All other previously approved development standards and conditions of approval per Ordinance 5057 and 5825 shall remain applicable.

The Engineering Department has been made aware that the retention basin, designed to handle the stormwater runoff of both Wendy's and this site, is not functioning as intended. Engineering initially recommended tabling the PUD amendment until it was resolved. We have agreed to allow the PUD amendment go before the Plan Commission and the Common Council for approval on the zoning action. However, the site plan will not be accepted by the Planning Department for review until there is a properly functioning retention basin as designed, approved by Engineering.

All other pertinent City Departments have reviewed and approved the request. Electric will need to discuss electric needs prior to construction, and Building will require permits prior to construction.

RECOMMENDATION

Staff recommends **approval** to amend a part of the Gateway Plaza – Bremen Highway Planned Unit Development (PUD) to allow a third restaurant with drive-thru facilities and a reduction of parking spaces.

All other previously approved development standards and conditions of approval per Ordinance 5057 and 5825 shall remain applicable to the property.

This recommendation is based upon the following findings of fact:

1. Existing Conditions – The subject property is currently vacant and has been approved for commercial development including multi-tenant buildings. Adjacent uses include two restaurants with drive-thru to the north, a credit union and convenience store/gas station to the east, single family residential within the PUD to the south and west permitted for commercial use, and single family residential in unincorporated St. Joseph County to the west.
2. Character of Buildings in Area – Single tenant commercial buildings, including two restaurants with drive-thru to the north, and a convenience store with gas station and credit union located east of Bremen Highway and north of Meijer Drive. Three single-family residential homes are located within the PUD boundaries, including two south of the subject property, and one to the west.

3. The most desirable/highest and best use – The requested PUD amendment will allow a third restaurant with drive-thru facilities to be constructed within the overall PUD boundary. Permitted uses within the PUD were limited to C-1 General Commercial uses, multi-tenant commercial buildings, self-lock storage facilities without outside storage, automobile repair shops, and two restaurants with drive-thru facilities.
4. Conservation of property values – The proposed amendment should not be injurious to property values in the surrounding area. A 6' high screening fence and landscaping is required along all property lines where adjacent to the remaining residential uses.
5. Comprehensive Plan – The property was identified as service commercial in the Mishawaka 2000 Comprehensive Plan. Given the development that has already taken place, an additional restaurant with drive-thru facilities is reasonably consistent with that guided use.

ATTACHMENTS

Aerial, Photographs, Petition, Site Plan, Location Map



Aerial Photograph
Vacant Property



P1. A view west across Bremen Highway



P2. A view south from the Wendy's parking lot.



P3. A view west from Veldman Dr.

STAFF REPORT

Location: 55770 Fir Road & 55721 Clover Road – Vacant Land East of
The Preserve at Fir Road Apartments

Date: June 11, 2024

Petition: 24- 08

Prepared By: DJS

GENERAL INFORMATION

Applicants: Robert P. Loudin, Trustee of the Robert P. Loudin Revocable Trust / Bertsch-Frank & Associates, LLC

Status: Property Owner / Surveyor & Engineer

Request: To annex, establish zoning, and approve a conceptual design for a proposed residential development.

Existing Zoning: Unincorporated St. Joseph County (R Single-Family District)

Proposed Zoning: R-1 Single Family Residential District

Lot Size: 19.45 acres including the adjacent Fir Road and Clover Road right-of-way

Applicable Regulations: Section 137-164 thru 137-166 / R-1 Single Family Residential District,
Section 137-41 / Amendments to the Zoning Map &
Indiana Code 36-4-3-2.1 and 36-4-3-3.1, and 36-7-4-603

SPECIAL INFORMATION

Area Development Pattern:

North:	Unincorporated St. Joseph County / R Single-Family Residential (Single-Family House)
South:	Unincorporated St. Joseph County / R Single-Family Residential (Vacant)
East:	Unincorporated St. Joseph County / R Single-Family Residential (Single-Family Houses & Public Utility / Mishawaka Electric Substation)
West:	S-2 Planned Unit Development (Multi-Family Residential / The Preserve at Fir Road Apartments)

Thoroughfare: Fir Road & Clover Road

Council District: To Be Determined (Contiguous to District 5)

School District: Penn-Harris-Madison

Public Utilities: All public utilities are available and/or will be extended to/throughout the site at the owner's/developer's expense.

Comprehensive Plan: Low Density Residential

ANALYSIS

Proposal:

The petitioner is proposing to annex, establish zoning, and approve a conceptual design for a proposed single-family residential development.

The 19.45 acre site, which includes two parcels (Tax Parcels 014-1134-5198.04 & 014-1018-0223.17), is located east of Fir Road approximately 1,200' north of E. McKinley Avenue. The site is vacant and has approximately 870' of frontage on Fir Road and 240' of frontage on Clover Road. The adjacent property to the west was annexed into the City of Mishawaka in 2003 with an S-2 Planned Unit Development (PUD) zoning classification for commercial, industrial, and multi-family residential uses. In 2007, The Preserve at Fir Road apartments was developed immediately west of the property.

Per the conceptual layout for the development, the petitioner plans to construct a 54 lot residential subdivision with public roads, sanitary sewer, and water. The average price of each lot, including the home, is estimated at \$450,000 to \$600,000.

Access is shown on the conceptual site plan from both Fir Road and Clover Road. Two access points are proposed along Fir Road with one access point on Clover Road.

The petitioner is requesting a zoning classification of R-1 Single Family Residential specifically for detached single family dwellings. Development regulations were not specified in the petition. Therefore, the residential PUD shall follow all the R-1 District height, area, and development regulations (Section 137-166).

Currently, the petitioner is only proposing to establish the zoning as R-1 Single Family Residential. If the annexation and zoning request is approved, a subdivision plat for each phase of the development must be submitted to address all the applicable zoning (height, area, and development regulations), utility (sanitary sewer, water, storm drainage, electric, gas, etc.), grading, erosion control, and other required improvements.

Annexation:

In 1966 and 2003, the Fir Road right-of-way and adjacent property to the west were respectively annexed into the City. When annexed, the property west of Fir Road was zoned to the S-2 PUD District for mixed use development to include commercial, industrial, and multi-family residential uses.

Per the State of Indiana's annexation laws, a parcel is required to share one-eighth, or 12.5%, of its boundary with the existing boundary to be annexed. With the previous annexations as outlined above, a total of 869.7 feet, or 20.4%, of the total 4,256.3 feet of the perimeter of the property will be contiguous with the existing city limits. This exceeds the required 12.5% contiguity.

Location/Context:

The site is located east of Fir Road nearly a quarter mile north of E. McKinley Avenue and bound to the north by a single-family residential house in unincorporated St. Joseph County, to the east by single-family residential houses and a public electric utility substation in unincorporated St. Joseph County, to the south by vacant property located in unincorporated St. Joseph County, and to the west by a multi-family residential apartment complex in the City of Mishawaka.

Zoning Change:

Staff believes that the proposed zoning of this property to the R-1 Single Family Residential District for detached residential dwellings is appropriate given that the adjacent property is zoned for and primarily occupied by single-family residential houses and an apartment complex.

Transportation/Roads:

According to the latest available traffic counts along Fir Road, there were 4,851 annual average daily trips (AADT) north of E. McKinley Avenue (May 2022) and 4,224 AADT north of the railroad spur a quarter mile

north of the property (June 2023). The counts at these locations have fluctuated between 4,038 AADT and 5,396 AADT over the last 17 years and will likely remain consistent in future years.

The 2050 Transportation Plan, prepared by the Michiana Area Council of Governments with input from City staff and the County Engineering Department, includes an auxiliary lane project (center turn lane) along Fir Road from E. McKinley Avenue to the Indiana Toll Road (I-80/90). The plan indicates an anticipated completion date of the project by 2035. The plan and anticipated completion dates for any transportation improvements may be amended in future years dependent on projected travel demand and funding availability.

All pertinent City Departments have reviewed and approved the request for annexation and zoning.

Planning Staff had several comments related to the conceptual subdivision design that shall be addressed with the future plat and construction plans.

The Electric Department commented that easements will be required throughout the development. This comment shall be addressed during the subdivision plat process.

RECOMMENDATION

Staff recommends **approval** of Petition 24-08 to annex, establish zoning, and approve a conceptual design for a single-family residential development on a 19.45 site located east of Fir Road approximately 1,200' north of E. McKinley Avenue. The property is proposed to be zoned R-1 Single Family Residential District subject to all the R-1 District height, area, and development regulations.

This recommendation is based on the following findings of fact:

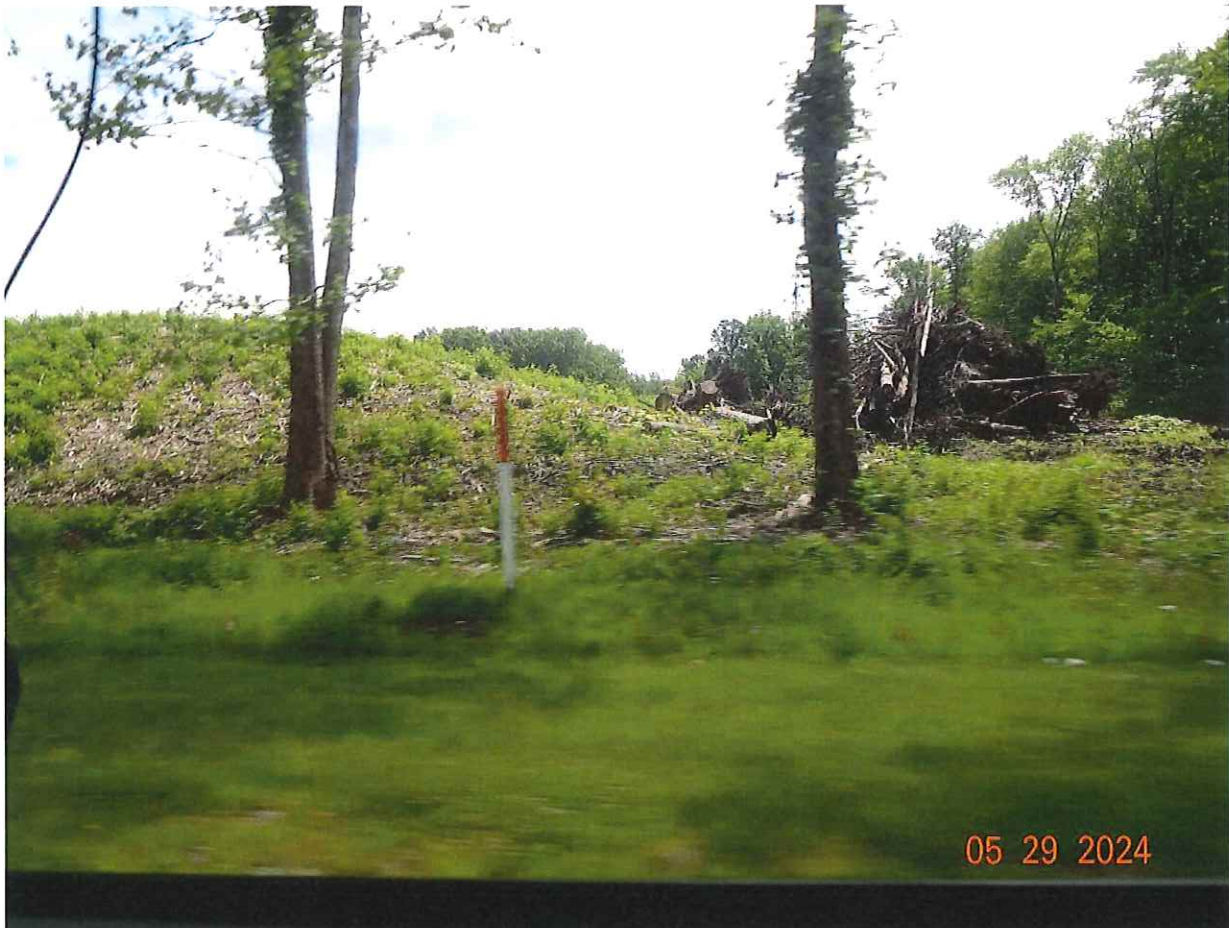
1. Existing Conditions - The subject property is located east of Fir Road approximately a quarter mile north of E. McKinley Avenue. Fir Road, which is a low to moderate travelled minor arterial road, serves as one of the primary north/south corridors in the northeast part of the city. McKinley Avenue to the south is a heavily travelled principal arterial providing major east/west access between St. Joseph and Elkhart County. Traffic volumes along these roads are anticipated to remain relatively consistent in future years. Adjacent land uses include single-family residential houses, an electric utility substation, and vacant property to the north, east, and south within unincorporated St. Joseph County, and an apartment complex to the west.
2. Character of Buildings in Area - The buildings and land uses along Fir Road are primarily single and multi-family residential. An indoor amusement facility and assisted living facility are located west of Fir Road north of the property.
3. The most desirable/highest and best use - With the property's location adjacent to residential uses, the most desirable use for the property is residential.
4. Conservation of property values - The proposed zoning should not be injurious to property values in the surrounding area. The proposed residential use is compatible with the adjacent single and multi-family residential uses.
5. Comprehensive Plan - The Mishawaka 2000 Comprehensive Plan identifies a preferred or recommended use of the subject property and adjacent areas as low density residential.

ATTACHMENTS

Aerial Map, Photographs, Petition for Annexation and Zoning Classification, Conceptual Design for Residential Subdivision, and Location Map



Aerial Photograph – 55770 Fir Road & 55721 Clover Road
Proposed Single-Family Residential Development



P1. Looking east from Fir Road toward the southwest area of the property.



P2. Looking east from the south access drive to the adjacent apartments toward the property.



P3. Looking northeasterly from the south access drive to the adjacent apartments toward the property.



P4. Looking east from Fir Road toward the north part of the property.



P5. Looking west from Clover Road toward the southeast corner of the property.

PROPOSED ORDINANCE NO. 2024-17

ORDINANCE NO. _____

AN ORDINANCE DECLARING AN EMERGENCY AND
DETERMINING THE EXPENDITURE OF ADDITIONAL
FUNDS FOR THE YEAR ENDING DECEMBER 31, 2024

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF MISHAWAKA
INDIANA, THAT:

Section 1. An emergency exists which requires the appropriation of additional funds for the fiscal year ending December 31, 2024, in addition to that set out in detail in the published budget.

Section 2. There is hereby appropriated from the CEDIT fund of the City of Mishawaka the sum of \$750,000.00 for assignment as follows:

County Economic Development Income Tax

OTHER SERVICES AND CHARGES

Repairs and Maintenance

2209-50-436-02

City Maintenance

City Hall elevators

\$250,000.00

Battell Park Band Shell

\$500,000.00

\$750,000.00

Section 3. This Ordinance shall be in full force and effect from and after its passage, signing and attestation.

PASSED BY THE COMMON COUNCIL of the City of Mishawaka, Indiana on this

_____ day of _____, 2024 at _____ o'clock, _____. M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMCA, MMC, City Clerk

PRESENTED BY ME to the Mayor of the City of Mishawaka, Indiana

on this _____ day of _____, 2024 at _____ o'clock, _____ M.

Deborah S. Block, IAMCA, MMC, City Clerk

APPROVED BY ME this _____ day of _____, 2024 at

_____ o'clock, _____ M.

David A. Wood, Mayor



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF FINANCE
Rebecca S. Maguire, Controller
Kayla Yoder, Deputy Controller

Date: June 17, 2024
To: Honorable Members of the Common Council
From: Rebecca Maguire
Re: **Additional Appropriations CEDIT fund**

Requesting approval on first reading for June 17th there are two items which require an additional appropriation.

First, is a repair of the historic Battell Park Band Shell. Second is for repair to the elevators at City Hall. Detailed information is attached as provided by Ken Prince.

A supplemental distribution of LIT funds received in May is available for these necessary expenses.

Please contact me with any questions.

c: David A. Wood, Mayor
Ken Prince, Director of Economic Development
Phil Blasko, Park Director



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF FINANCE
Rebecca S. Maguire, Controller
Kayla Yoder, Deputy Controller

Battell Park Band Shell repair

Two years ago, Parks and Central Services noticed deterioration in the limestone areas near the roof of the Battell Park Band Shell. We immediately investigated and it was determined not to be a threat to patrons visiting or using the facility. The following year, the conditions became worse with more damage and notable water leakage. Thinking it was a masonry issue, and knowing masonry work is specialized and a premium in our region now, we asked Weigand Construction to investigate the issue. They used lifts and drones to visually inspect the masonry and roof. Our hope was that we could do a time and materials contract that did not exceed \$50,000 that would have immediately allowed them to work on and address the issues. Unfortunately, they came back and identified that the problem was larger than just isolated repair. The cause was likely many years of slow water infiltration from the roof area to the stone that was now getting worse over time. Not only could they not address the issue in the field, but they also recommended that we hire an architect to prepare plans and a scope to address the issue through the bid process. We hired DLZ of South Bend who had prepared plans and oversaw other restoration work at the Band Shell 25 years ago and had plans of the Band Shell that could be referenced. DLZ determined that the problem was the copper roof and drain system that was leaking impacting the limestone over time through the freeze thaw cycle. DLZ prepared plans to replace the copper roof, fix the drainage, and replace/repair the damaged limestone on the structure. The Board of Public Works opened bids last week. Two bids were received and DLZ is recommending that we move forward with Slatile Roofing and Sheet Metal as the lowest most responsible bidder. The engineer's estimate for this project (base bid) was approximately \$470,000. The two base bids received were \$403,570 and \$420,000. Although the City bid multiple roof types, the plans we are proposing to move forward with are identical in materials (copper roof and limestone) and appearance of the original Band Shell. As such, this work is deemed maintenance, and a Certificate of Appropriateness is not required from the Historic Preservation Commission (HPC) for the work on the building. The work will require the removal of all the landscaping from the base of the structure, although it will be replanted. As such, we are going to ask the HPC for this approval. As part of the bid process, we also asked DLZ to include the replacement of the interior lighting of the Band Shell as an alternate proposal. Two alternates were bid on. One for plain white light, the second for color changing LED lights. Although more expensive by 15K, the Administration is recommending the color changing lights because of both the performance characteristics of the space and the Christmas Tree placement that occurs on a yearly basis. The combined low bid is \$434,020. \$500,000 has been requested to address potential unforeseen conditions and consulting costs associated with the project.



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF FINANCE
Rebecca S. Maguire, Controller
Kayla Yoder, Deputy Controller

City Hall Elevator repairs

Upon purchase of the former Liberty Mutual building, in 2020, the City working through Alliance Architects had both building elevators professionally inspected and evaluated by Stuard and Associates, an independent professional elevator inspection firm. The inspection identified that the elevators were built with the building in 1984, and that they were rebuilt/modernized by Liberty Mutual in 2008. They made specific recommendations including re-doing the cabs, providing pit lighting, and other code related issues that were addressed as part of the City Hall Renovation. What we did not address were the mechanical systems themselves. Noting that per the inspector's report, the optimized life between rebuilds is 20 years. Liberty Mutual waited 24 years before rebuilding. At the time of renovation, we asked specifically if it was problematic waiting on the mechanical rebuild to hopefully maximize the time between rebuilds. We were told that this type of repair/rebuild can and is done independently of other building construction. As such, there was no additional efficiency to be gained by performing the mechanical renovation at that time of the building renovation other than convenience. Ideally, we were hoping that the City would be able to not undergo this mechanical replacement until 2028 or later given the rebuild that occurred by Liberty Mutual in 2008. Unfortunately, that is not the case and we have been informed by our service provider that both elevators need replacement at this time, 16 years after the last rebuild. We are hopeful since we are now through construction, that the proposed replacement will last for 20 years or more. There will be no physical appearance change of either elevator as part of the proposed mechanical rebuild. The plan will be to repair one elevator at a time so that there is always a working elevator in the building.

Deborah S. Block, IAMC, MMC

JUN 12 2024

City Clerk
Mishawaka, IN

PETITION 24-07

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2024-18

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 137, OF THE MUNICIPAL
CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME
AMENDED, COMMONLY KNOWN AS "THE ZONING ORDINANCE OF 1966" OF
THE CITY OF MISHAWAKA, INDIANA.

WHEREAS, the Plan Commission of the City of Mishawaka, Indiana, has
recommended the reclassification of the zoning as herein set forth of the real estate
hereinafter described.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF
MISHAWAKA, INDIANA, that:

Section 1. Chapter 137, of the Municipal Code of the City of Mishawaka,
commonly known as "The Zoning Ordinance of 1966", be, and the same is hereby amended
as follows:

The following described real estate in the City of Mishawaka, Penn Township, St.
Joseph County, State of Indiana, to-wit:

LOT 2 OF THE WEN 14175 BREMEN, LLC MINOR SUBDIVISION AS RECORDED UNDER
INSTRUMENT NUMBER 2024-00737 IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY,
INDIANA.

which real estate is now classified as S-2 Planned Unit Development shall hereafter be
amended as follows:

To allow a third restaurant with drive-thru facilities and a reduction of parking spaces.

Section 2. The Common Council of the City of Mishawaka, Indiana, hereby finds
that:

1. Existing Conditions – The subject property is currently vacant and has been approved for commercial development including multi-tenant buildings. Adjacent uses include two restaurants with drive-thru to the north, a credit union and convenience store/gas station to the east, single family residential within the PUD to the south and west permitted for commercial use, and single family residential in unincorporated St. Joseph County to the west.
2. Character of Buildings in Area – Single tenant commercial buildings, including two restaurants with drive-thru to the north, and a convenience store with gas station and credit union located east of Bremen Highway and north of Meijer Drive. Three single-family residential homes are located within the PUD boundaries, including two south of the subject property, and one to the west.

Proposed Ordinance No: _____

Ordinance No: _____

- 3. The most desirable/highest and best use – The requested PUD amendment will allow a third restaurant with drive-thru facilities to be constructed within the overall PUD boundary. Permitted uses within the PUD were limited to C-1 General Commercial uses, multi-tenant commercial buildings, self-lock storage facilities without outside storage, automobile repair shops, and two restaurants with drive-thru facilities.
- 4. Conservation of property values – The proposed amendment should not be injurious to property values in the surrounding area. A 6’ high screening fence and landscaping is required along all property lines where adjacent to the remaining residential uses.
- 5. Comprehensive Plan – The property was identified as service commercial in the Mishawaka 2000 Comprehensive Plan. Given the development that has already taken place, an additional restaurant with drive-thru facilities is reasonably consistent with that guided use.

Section 3. This Ordinance shall be in full force and effect from and after its passage, due attestation and legal publication.

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of _____, 2024, at _____ o'clock ____M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____, 2024, at _____ o'clock ____M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2024, at _____ o'clock ____M.

David A. Wood, Mayor

STAFF REPORT

Location: South of 3625 Bremen Highway
Part of the Gateway Plaza – Bremen Highway PUD

June 11, 2024

Petition: 24- 07

Prepared By: CH

GENERAL INFORMATION

Applicant:

WEN 14175 Bremen LLC / Watermark Engineering

Status:

Property Owner / Site Design Consultant

Request:

Amend a part of the Gateway Plaza – Bremen Highway Planned Unit Development to allow a third restaurant with drive-thru facilities and parking reduction

Zoning Classification:

S-2 Planned Unit Development District / Permitted C-1 General Commercial uses, multi-tenant commercial buildings, self-lock storage facilities, and two restaurant with drive-thru facilities

Lot Size:

1.41 acres

Applicable Regulations:

Section 137-671 to 137-679 / S-2 Planned Unit Development District (Ord. 5057) & Section 137-41 / Amendment to Zoning Ordinance & Zoning Map Indiana Code 36-7-4-603

SPECIAL INFORMATION

Area Development Pattern:

North:

S-2 Planned Unit Development District (Restaurants with Drive-Thru / Wendy’s & Taco Bell)

South:

S-2 Planned Unit Development (Residential / Permitted for C-1 General Commercial Use)

East:

C-1 General Commercial (Credit Union / United Federal Credit Union)

West:

Unincorporated St. Joseph County (INDOT & All Access Storage Access Road, and Single-Family Residential)

Thoroughfare:

Bremen Highway, Meijer Drive & Veldman Drive

School District:

Penn-Harris-Madison School Corporation

Township:

Penn

Public Utilities:

All utilities are available and/or will be extended to/throughout the site at the developer’s expense.

Comprehensive Plan:

General Commercial

ANALYSIS

The applicant, WEN 14175 Bremen LLC, is requesting to amend a part of the Gateway Plaza – Bremen Highway Planned Unit Development (PUD) to allow a third restaurant with drive-thru facilities parking reduction to 24 spaces for a Starbucks.

The 1.41 acre site proposed for multi-tenant commercial development is currently vacant and was recently subdivided as the Wendy’s restaurant to the north was developed.

Per the original PUD regulations (Ordinance 5057), permitted uses within the overall 16.8 acre PUD were limited to C-1 General Commercial uses, multi-tenant commercial buildings, self-lock storage facilities with no outside storage restricted to an 8.3 acre area south of high tension power lines adjacent to the U.S. 20 bypass, and one restaurant with drive-thru facilities. A PUD amendment in 2022 (Ordinance 5825), allowed a second restaurant with drive-thru facilities, automobile repair shop, waive requirement of written approval of all property owners within the PUD, reduction in parking spaces, and the use of fiber cement board as an approved material.

Due to the recession in the late 2000s and difficulty in assembling the individual properties, the 16.8 acre property has not been able to be developed as a cohesive development as originally envisioned. When approved, there were six homes within the PUD. Only three single-family homes remain within the PUD boundaries. The home to the west is owner-occupied. The two houses to the south are owned by KLT Properties the developer of the All Secure Storage facility to the south. One was damaged by fire and is uninhabitable, but the one to the south at 3717 Bremen Highway was recently purchased and the intent is not known. This site will be subject to the required 6’ high fence and landscape screening between the commercial site and the remaining adjacent residential uses.

All other previously approved development standards and conditions of approval per Ordinance 5057 and 5825 shall remain applicable.

The Engineering Department has been made aware that the retention basin, designed to handle the stormwater runoff of both Wendy’s and this site, is not functioning as intended. Engineering initially recommended tabling the PUD amendment until it was resolved. We have agreed to allow the PUD amendment go before the Plan Commission and the Common Council for approval on the zoning action. However, the site plan will not be accepted by the Planning Department for review until there is a properly functioning retention basin as designed, approved by Engineering.

All other pertinent City Departments have reviewed and approved the request. Electric will need to discuss electric needs prior to construction, and Building will require permits prior to construction.

RECOMMENDATION

Staff recommends **approval** to amend a part of the Gateway Plaza – Bremen Highway Planned Unit Development (PUD) to allow a third restaurant with drive-thru facilities and a reduction of parking spaces.

All other previously approved development standards and conditions of approval per Ordinance 5057 and 5825 shall remain applicable to the property.

This recommendation is based upon the following findings of fact:

- 1. Existing Conditions – The subject property is currently vacant and has been approved for commercial development including multi-tenant buildings. Adjacent uses include two restaurants with drive-thru to the north, a credit union and convenience store/gas station to the east, single family residential within the PUD to the south and west permitted for commercial use, and single family residential in unincorporated St. Joseph County to the west.
- 2. Character of Buildings in Area – Single tenant commercial buildings, including two restaurants with drive-thru to the north, and a convenience store with gas station and credit union located east of Bremen Highway and north of Meijer Drive. Three single-family residential homes are located within the PUD boundaries, including two south of the subject property, and one to the west.

- 3. The most desirable/highest and best use – The requested PUD amendment will allow a third restaurant with drive-thru facilities to be constructed within the overall PUD boundary. Permitted uses within the PUD were limited to C-1 General Commercial uses, multi-tenant commercial buildings, self-lock storage facilities without outside storage, automobile repair shops, and two restaurants with drive-thru facilities.
- 4. Conservation of property values – The proposed amendment should not be injurious to property values in the surrounding area. A 6’ high screening fence and landscaping is required along all property lines where adjacent to the remaining residential uses.
- 5. Comprehensive Plan – The property was identified as service commercial in the Mishawaka 2000 Comprehensive Plan. Given the development that has already taken place, an additional restaurant with drive-thru facilities is reasonably consistent with that guided use.

ATTACHMENTS

Aerial, Photographs, Petition, Site Plan, Location Map



Aerial Photograph
Vacant Property



P1. A view west across Bremen Highway



P2. A view south from the Wendy's parking lot.



P3. A view west from Veldman Dr.



MAY 23 2024

City Clerk
Mishawaka, IN

PET 24-07
Received

MAY 10 2024

Planning and
Community Development

Date: May 6, 2024

To: Honorable Members of the Common Council
City of Mishawaka, Indiana, and Mishawaka
City Plan Commission City of Mishawaka, Indiana

RE: PETITION FOR PUD AMENDMENT

The undersigned, WEN 14175 Bremen LLC, respectfully show they are the owners of the following described real estate located in the City of Mishawaka, County of St. Joseph, State of Indiana, to-wit:

PARCEL II:

A TRACT OF LAND CONTAINING 1.5 ACRES, IN THE SOUTHEAST PART OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF SECTION 28, TOWNSHIP 37 NORTH, RANGE 3 EAST, WHICH TRACT IS BOUNDED BY A LINE RUNNING AS FOLLOWS, VIZ: BEGINNING ON THE EAST LINE OF SAID SECTION 28 AT A POINT 14 RODS NORTH OF THE SOUTHEAST CORNER OF THE NORTH HALF OF THE SOUTHEAST QUARTER THEREOF, THENCE RUNNING NORTH ALONG THE EAST LINE OF SAID SECTION A DISTANCE OF 6 RODS; THENCE WEST 40 RODS; THENCE SOUTH 6 RODS; THENCE EAST 40 RODS TO THE PLACE OF BEGINNING.

EXCEPTING THEREFROM THE FOLLOWING:

A PART OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 28, TOWNSHIP 37 NORTH, RANGE 3 EAST, ST. JOSEPH COUNTY, INDIANA, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID QUARTER-QUARTER SECTION; THENCE NORTH 00 DEGREES 22 MINUTES 01 SECONDS WEST 231.00 FEET ALONG THE EAST LINE OF SAID SECTION TO THE SOUTHEAST CORNER OF THE OWNER'S LAND; THENCE SOUTH 89 DEGREES 32 MINUTES 18 SECONDS WEST 40.85 FEET ALONG THE SOUTH LINE OF THE OWNER'S LAND TO THE POINT OF BEGINNING OF THIS DESCRIPTION, WHICH POINT IS ON THE WEST BOUNDARY OF S.R. 331 (ALSO KNOWN AS BREMEN HIGHWAY); THENCE SOUTH 89 DEGREES 32 MINUTES 18 SECONDS WEST 20.00 FEET ALONG SAID SOUTH LINE; THENCE NORTH 00 DEGREES 19 MINUTES 00 SECONDS WEST 99.00 FEET TO THE NORTH LINE OF THE OWNER'S LAND; THENCE NORTH 89 DEGREES 32 MINUTES 18 SECONDS EAST 20.00 FEET ALONG SAID NORTH LINE TO THE WEST BOUNDARY OF SAID S.R. 331; THENCE SOUTH 00 DEGREES 19 MINUTES 00 SECONDS EAST 99.00 FEET ALONG SAID WEST BOUNDARY TO THE POINT OF BEGINNING.

Common address: 3707 Bremen Highway

Petitioner owns one hundred (100%) of the above-described parcel of land which carries a zoning classification of S-2 Planned Unit Development specifically for existing vacant land.

Petitioner desires said real estate to be amended to allow for a third restaurant with drive-thru facilities within the original PUD boundary, located on the above-described parcel, as well as a reduction in the required parking spaces to allow for a total of 24 parking spaces.

Wherefore, the petitioner respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted amending the PUD of the above-described parcel of land located in the City of Mishawaka.

Signature of Property Owner/Title Holder

(Print Name Here)

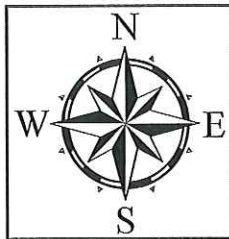
Richard Kunholtz, Co-President

Contact Person: Robin Ersfeldt, Watermark Engineering Resources, Ltd.
2631 Ginger Woods Parkway
Suite 100, Aurora, IL 60502
ersfeldt@watermark-engineering.com
708-203-8025

LEGAL DESCRIPTION:

LOT 2 OF THE WEN 14175 BREMEN, LLC MINOR SUBDIVISION AS RECORDED UNDER
INSTRUMENT NUMBER 2024-00737 IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY,
INDIANA.





C-7

C-4

C-1

ELMWOOD AVE

S-2

S-2

MEIJER DR

S-2

PET 24-07

VELDMAN DR

S-2

S-2

BREMEN HWY

S-2

S-2

S-2

S-2

C-1

Location Map

PETITION 24-07

WEN 14175 BREMEN LLC
(OWNER)

VACANT LOT SOUTH OF
3625 BREMEN HIGHWAY

PUD AMENDMENT TO ALLOW
A THIRD DRIVE-THRU RESTAURANT
AND REDUCTION OF PARKING SPACES

ST JOSEPH VALLEY PKWY

JUN 12 2024

City Clerk
Mishawaka, IN

PETITION 24-08

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2024-19

ORDINANCE NO. _____

AN ORDINANCE ANNEXING CONTIGUOUS TERRITORY TO THE CITY OF
MISHAWAKA, INDIANA, AND PROVIDING ZONING CLASSIFICATION
THEREFORE

WHEREAS, a Petition has been presented to the Common Council of the City of Mishawaka, Indiana, praying that certain territory lying contiguous to the corporate limits of the City of Mishawaka, Indiana, be annexed to and declared to be a part of the City of Mishawaka, and that it be provided with a Zoning Classification, and

WHEREAS, the Mishawaka City Plan Commission, to which Commission the petition was duly referred, has recommended the annexation and the zoning as R-1 Single Family Residential hereinafter set forth, including the imposition of reasonable conditions, to wit, the recommendations of the Department of City Planning.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, that:

Section 1. The following described real estate be and the same is hereby annexed to and declared to be a part of the City of Mishawaka, Indiana:

PARCEL I: A PART OF THE SOUTHWEST QUARTER OF SECTION TWO (2), TOWNSHIP THIRTY-SEVEN (37) NORTH, RANGE THREE (3) EAST, ST. JOSEPH COUNTY, INDIANA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, VIZ: BEGINNING AT A POINT ON THE WEST LINE OF THE SAID SOUTHWEST QUARTER OF SECTION 2, 544.58 FEET SOUTH OF THE NORTHWEST CORNER OF THE SAID SOUTHWEST QUARTER, THENCE EAST PARALLEL WITH THE NORTH LINE OF THE SAID SOUTHWEST QUARTER, 869.70 FEET; THENCE SOUTH PARALLEL WITH THE SAID WEST LINE OF THE SOUTHWEST QUARTER, 886.02 FEET; THENCE WEST PARALLEL WITH THE SAID NORTH LINE OF THE SOUTHWEST QUARTER, 869.70 FEET TO THE SAID WEST LINE OF THE SOUTHWEST QUARTER; THENCE NORTH ALONG SAID WEST LINE, 886.02 FEET TO THE PLACE OF BEGINNING. SUBJECT TO LEGAL HIGHWAYS.

PARCEL II: BEGINNING AT A POINT WHICH IS 1231.2 FEET EAST OF AND 1442 FEET NORTH OF THE SOUTHWEST CORNER OF SECTION NUMBERED TWO (2), TOWNSHIP NUMBERED THIRTY-SEVEN (37) NORTH, RANGE NUMBERED THREE (3) EAST; THENCE NORTH 240 FEET; THENCE WEST 373.27 FEET; THENCE SOUTH 240 FEET; THENCE EAST 371.59 FEET TO THE PLACE OF BEGINNING, BEING LOT NUMBERED THIRTY (30) IN THE PLAT OF WILLIAMS SULT'S BABY FARMS INCLUDING THE ADJACENT CLOVER ROAD RIGHT-OF-WAY.

The above described real estate shall hereafter be annexed into and within the City of Mishawaka, Indiana, and a part of that district designated in the Zoning Ordinance

Proposed Ordinance No: _____

Ordinance No: _____

of the City of Mishawaka, Indiana, and shall carry a classification for zoning of R-1 Single Family Residential.

Section 2. The Common Council of the City of Mishawaka, Indiana, hereby finds that:

1. Existing Conditions - The subject property is located east of Fir Road approximately a quarter mile north of E. McKinley Avenue. Fir Road, which is a low to moderate travelled minor arterial road, serves as one of the primary north/south corridors in the northeast part of the city. McKinley Avenue to the south is a heavily travelled principal arterial providing major east/west access between St. Joseph and Elkhart County. Traffic volumes along these roads are anticipated to remain relatively consistent in future years. Adjacent land uses include single-family residential houses, an electric utility substation, and vacant property to the north, east, and south within unincorporated St. Joseph County, and an apartment complex to the west.
2. Character of Buildings in Area - The buildings and land uses along Fir Road are primarily single and multi-family residential. An indoor amusement facility and assisted living facility are located west of Fir Road north of the property.
3. The most desirable/highest and best use - With the property's location adjacent to residential uses, the most desirable use for the property is residential.
4. Conservation of property values - The proposed zoning should not be injurious to property values in the surrounding area. The proposed residential use is compatible with the adjacent single and multi-family residential uses.
5. Comprehensive Plan - The Mishawaka 2000 Comprehensive Plan identifies a preferred or recommended use of the subject property and adjacent areas as low density residential.

Section 3. This Ordinance shall be in full force and effect from and after its passage, due attestation and legal publication.

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of _____, 2024, at _____ o'clock ____M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

Proposed Ordinance No: _____

Ordinance No: _____

PRESENTED by me to the Mayor this _____ day of _____,
2024, at _____ o'clock _____.M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2024, at
_____ o'clock _____.M.

David A. Wood, Mayor

MAY 23 2024

City Clerk
Mishawaka, IN

May 9, 2024

TO THE:
Honorable Members of the Common Council
City of Mishawaka, Indiana
and
Mishawaka City Plan Commission
City of Mishawaka, Indiana

PA 24-03
Received

MAY 17 2024

Planning and
Community Development

RE: Petition for Annexation and Zoning Classification

The undersigned Robert P. Loudin, Trustee of the Robert P. Loudin Revocable Trust respectfully show they are the owners of the following described real estate located in the County of St. Joseph, State of Indiana, to-wit:

PARCEL I: A PART OF THE SOUTHWEST QUARTER OF SECTION TWO (2), TOWNSHIP THIRTY-SEVEN (37) NORTH, RANGE THREE (3) EAST, ST. JOSEPH COUNTY, INDIANA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, VIZ: BEGINNING AT A POINT ON THE WEST LINE OF THE SAID SOUTHWEST QUARTER OF SECTION 2, 544.58 FEET SOUTH OF THE NORTHWEST CORNER OF THE SAID SOUTHWEST QUARTER, THENCE EAST PARALLEL WITH THE NORTH LINE OF THE SAID SOUTHWEST QUARTER, 869.70 FEET; THENCE SOUTH PARALLEL WITH THE SAID WEST LINE OF THE SOUTHWEST QUARTER, 886.02 FEET; THENCE WEST PARALLEL WITH THE SAID NORTH LINE OF THE SOUTHWEST QUARTER, 869.70 FEET TO THE SAID WEST LINE OF THE SOUTHWEST QUARTER; THENCE NORTH ALONG SAID WEST LINE, 886.02 FEET TO THE PLACE OF BEGINNING. SUBJECT TO LEGAL HIGHWAYS.

PARCEL II: BEGINNING AT A POINT WHICH IS 1231.2 FEET EAST OF AND 1442 FEET NORTH OF THE SOUTHWEST CORNER OF SECTION NUMBERED TWO (2), TOWNSHIP NUMBERED THIRTY-SEVEN (37) NORTH, RANGE NUMBERED THREE (3) EAST; THENCE NORTH 240 FEET; THENCE WEST 373.27 FEET; THENCE SOUTH 240 FEET; THENCE EAST 371.59 FEET TO THE PLACE OF BEGINNING, BEING LOT NUMBERED THIRTY (30) IN THE PLAT OF WILLIAMS SULT'S BABY FARMS INCLUDING THE ADJACENT CLOVER ROAD RIGHT-OF-WAY.

Petitioners own One Hundred (100%) percent of the above-described parcel of land which is located in St. Joseph County and that Petitioners desire the same to be annexed to the City of Mishawaka, Indiana, with a (R-1) Residential District. Petitioners further state they intend to utilize said land for the development of a residential subdivision.

Accompanying this petition is a drawing, to scale, showing the above-described parcel of real estate, showing the size of the proposed building and also the location of the proposed building structure(s).

Petitioners further show this proposed annexation to be in the best interest of the City of Mishawaka, Indiana, and of the territory sought to be annexed which is urban in character and is an economic and social part of the City of Mishawaka.

Wherefore, Petitioners pray and respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an

appropriate ordinance be enacted annexing the above described parcel of real estate to the City of Mishawaka with a (R-1) Residential District.



Robert P. Loudin, Trustee of the Robert P. Loudin Revocable Trust

Robert P. Loudin

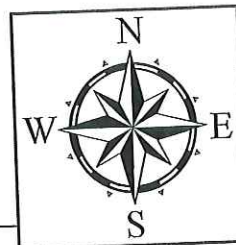
Print Name

Contact Person:

Matthew G. Bertsch, P.S.
Bertsch-Frank & Assoc. LLC
811 Lawrence Drive
Ft. Wayne, IN 46808
(260) 459-9393
mbertsch@bertschfrank.com

DEER RUN DR

PET 24-08



HEMMER LN

S-2

SPICER LN

STEELE LN

FIR RD

CLOVER RD

Location Map

PETITION 24-08

ROBERT P. LOUDIN REVOCABLE TRUST
(OWNER)

LOCATED ON THE EAST SIDE
OF FIR ROAD, ACROSS FROM
THE PRESERVE APARTMENTS,
EXTENDING TO CLOVER ROAD

REZONING AND ESTABLISH ZONING AS
SINGLE FAMILY RESIDENTIAL

C-1 C-1 C-1 C-1 C-4 C-4 C-4 C-4 C-4 C-4 R-1 R-1
C-4 C-4 C-4 C-4 R-1 R-1 R-1 R-1 R-1

E MCKINLEY AVE

STAFF REPORT

Location: 55770 Fir Road & 55721 Clover Road – Vacant Land East of
The Preserve at Fir Road Apartments

Date: June 11, 2024

Petition: 24- 08

Prepared By: DJS

GENERAL INFORMATION

Applicants: Robert P. Loudin, Trustee of the Robert P. Loudin Revocable Trust / Bertsch-Frank & Associates, LLC

Status: Property Owner / Surveyor & Engineer

Request: To annex, establish zoning, and approve a conceptual design for a proposed residential development.

Existing Zoning: Unincorporated St. Joseph County (R Single-Family District)

Proposed Zoning: R-1 Single Family Residential District

Lot Size: 19.45 acres including the adjacent Fir Road and Clover Road right-of-way

Applicable Regulations: Section 137-164 thru 137-166 / R-1 Single Family Residential District,
Section 137-41 / Amendments to the Zoning Map &
Indiana Code 36-4-3-2.1 and 36-4-3-3.1, and 36-7-4-603

SPECIAL INFORMATION

Area Development Pattern: North: Unincorporated St. Joseph County / R Single-Family Residential (Single-Family House)
South: Unincorporated St. Joseph County / R Single-Family Residential (Vacant)
East: Unincorporated St. Joseph County / R Single-Family Residential (Single-Family Houses & Public Utility / Mishawaka Electric Substation)
West: S-2 Planned Unit Development (Multi-Family Residential / The Preserve at Fir Road Apartments)

Thoroughfare: Fir Road & Clover Road

Council District: To Be Determined (Contiguous to District 5)

School District: Penn-Harris-Madison

Public Utilities: All public utilities are available and/or will be extended to/throughout the site at the owner's/developer's expense.

Comprehensive Plan: Low Density Residential

ANALYSIS

Proposal:

The petitioner is proposing to annex, establish zoning, and approve a conceptual design for a proposed single-family residential development.

The 19.45 acre site, which includes two parcels (Tax Parcels 014-1134-5198.04 & 014-1018-0223.17), is located east of Fir Road approximately 1,200' north of E. McKinley Avenue. The site is vacant and has approximately 870' of frontage on Fir Road and 240' of frontage on Clover Road. The adjacent property to the west was annexed into the City of Mishawaka in 2003 with an S-2 Planned Unit Development (PUD) zoning classification for commercial, industrial, and multi-family residential uses. In 2007, The Preserve at Fir Road apartments was developed immediately west of the property.

Per the conceptual layout for the development, the petitioner plans to construct a 54 lot residential subdivision with public roads, sanitary sewer, and water. The average price of each lot, including the home, is estimated at \$450,000 to \$600,000.

Access is shown on the conceptual site plan from both Fir Road and Clover Road. Two access points are proposed along Fir Road with one access point on Clover Road.

The petitioner is requesting a zoning classification of R-1 Single Family Residential specifically for detached single family dwellings. Development regulations were not specified in the petition. Therefore, the residential PUD shall follow all the R-1 District height, area, and development regulations (Section 137-166).

Currently, the petitioner is only proposing to establish the zoning as R-1 Single Family Residential. If the annexation and zoning request is approved, a subdivision plat for each phase of the development must be submitted to address all the applicable zoning (height, area, and development regulations), utility (sanitary sewer, water, storm drainage, electric, gas, etc.), grading, erosion control, and other required improvements.

Annexation:

In 1966 and 2003, the Fir Road right-of-way and adjacent property to the west were respectively annexed into the City. When annexed, the property west of Fir Road was zoned to the S-2 PUD District for mixed use development to include commercial, industrial, and multi-family residential uses.

Per the State of Indiana's annexation laws, a parcel is required to share one-eighth, or 12.5%, of its boundary with the existing boundary to be annexed. With the previous annexations as outlined above, a total of 869.7 feet, or 20.4%, of the total 4,256.3 feet of the perimeter of the property will be contiguous with the existing city limits. This exceeds the required 12.5% contiguity.

Location/Context:

The site is located east of Fir Road nearly a quarter mile north of E. McKinley Avenue and bound to the north by a single-family residential house in unincorporated St. Joseph County, to the east by single-family residential houses and a public electric utility substation in unincorporated St. Joseph County, to the south by vacant property located in unincorporated St. Joseph County, and to the west by a multi-family residential apartment complex in the City of Mishawaka.

Zoning Change:

Staff believes that the proposed zoning of this property to the R-1 Single Family Residential District for detached residential dwellings is appropriate given that the adjacent property is zoned for and primarily occupied by single-family residential houses and an apartment complex.

Transportation/Roads:

According to the latest available traffic counts along Fir Road, there were 4,851 annual average daily trips (AADT) north of E. McKinley Avenue (May 2022) and 4,224 AADT north of the railroad spur a quarter mile

north of the property (June 2023). The counts at these locations have fluctuated between 4,038 AADT and 5,396 AADT over the last 17 years and will likely remain consistent in future years.

The 2050 Transportation Plan, prepared by the Michiana Area Council of Governments with input from City staff and the County Engineering Department, includes an auxiliary lane project (center turn lane) along Fir Road from E. McKinley Avenue to the Indiana Toll Road (I-80/90). The plan indicates an anticipated completion date of the project by 2035. The plan and anticipated completion dates for any transportation improvements may be amended in future years dependent on projected travel demand and funding availability.

All pertinent City Departments have reviewed and approved the request for annexation and zoning.

Planning Staff had several comments related to the conceptual subdivision design that shall be addressed with the future plat and construction plans.

The Electric Department commented that easements will be required throughout the development. This comment shall be addressed during the subdivision plat process.

RECOMMENDATION

Staff recommends **approval** of Petition 24-08 to annex, establish zoning, and approve a conceptual design for a single-family residential development on a 19.45 site located east of Fir Road approximately 1,200' north of E. McKinley Avenue. The property is proposed to be zoned R-1 Single Family Residential District subject to all the R-1 District height, area, and development regulations.

This recommendation is based on the following findings of fact:

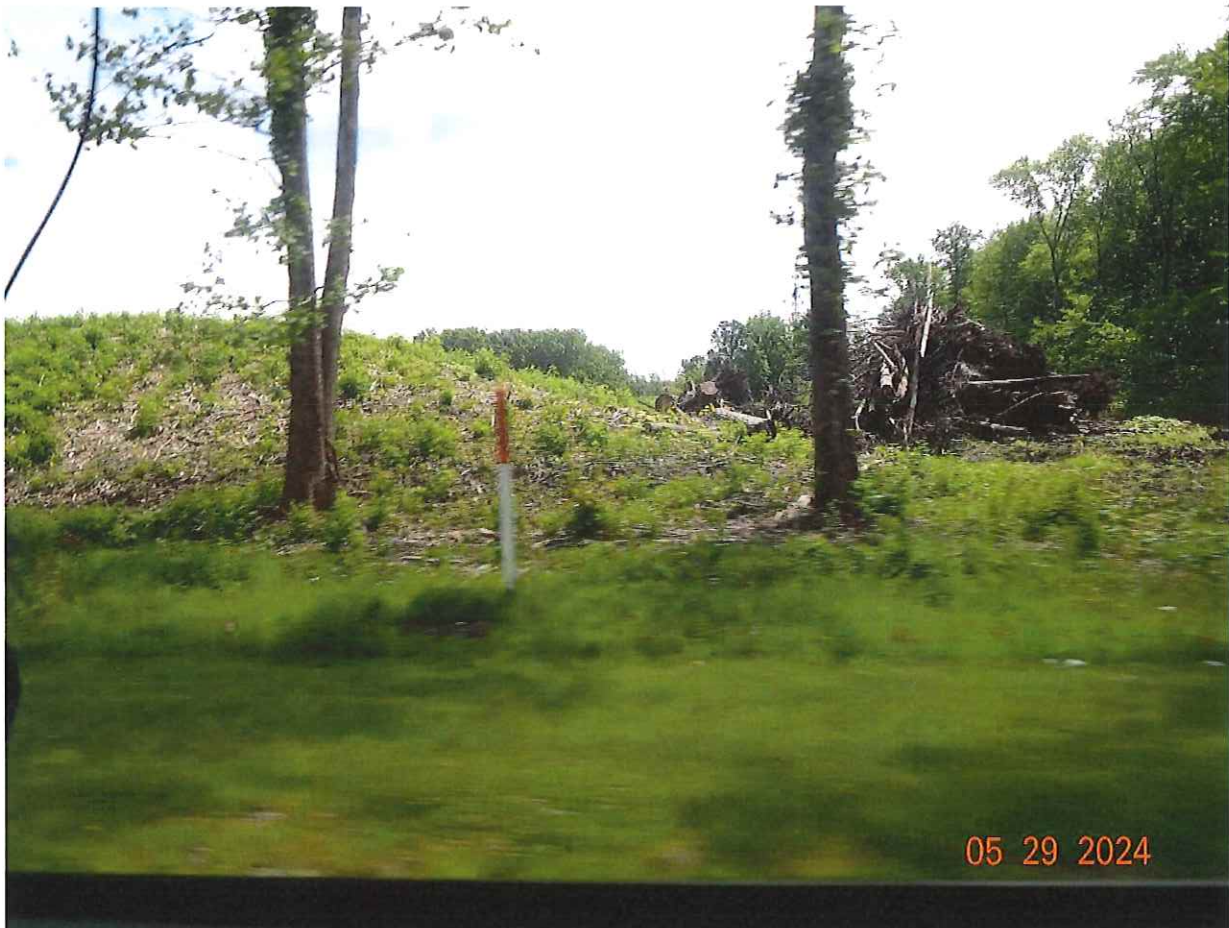
1. Existing Conditions - The subject property is located east of Fir Road approximately a quarter mile north of E. McKinley Avenue. Fir Road, which is a low to moderate travelled minor arterial road, serves as one of the primary north/south corridors in the northeast part of the city. McKinley Avenue to the south is a heavily travelled principal arterial providing major east/west access between St. Joseph and Elkhart County. Traffic volumes along these roads are anticipated to remain relatively consistent in future years. Adjacent land uses include single-family residential houses, an electric utility substation, and vacant property to the north, east, and south within unincorporated St. Joseph County, and an apartment complex to the west.
2. Character of Buildings in Area - The buildings and land uses along Fir Road are primarily single and multi-family residential. An indoor amusement facility and assisted living facility are located west of Fir Road north of the property.
3. The most desirable/highest and best use - With the property's location adjacent to residential uses, the most desirable use for the property is residential.
4. Conservation of property values - The proposed zoning should not be injurious to property values in the surrounding area. The proposed residential use is compatible with the adjacent single and multi-family residential uses.
5. Comprehensive Plan - The Mishawaka 2000 Comprehensive Plan identifies a preferred or recommended use of the subject property and adjacent areas as low density residential.

ATTACHMENTS

Aerial Map, Photographs, Petition for Annexation and Zoning Classification, Conceptual Design for Residential Subdivision, and Location Map



Aerial Photograph – 55770 Fir Road & 55721 Clover Road
Proposed Single-Family Residential Development



P1. Looking east from Fir Road toward the southwest area of the property.



P2. Looking east from the south access drive to the adjacent apartments toward the property.



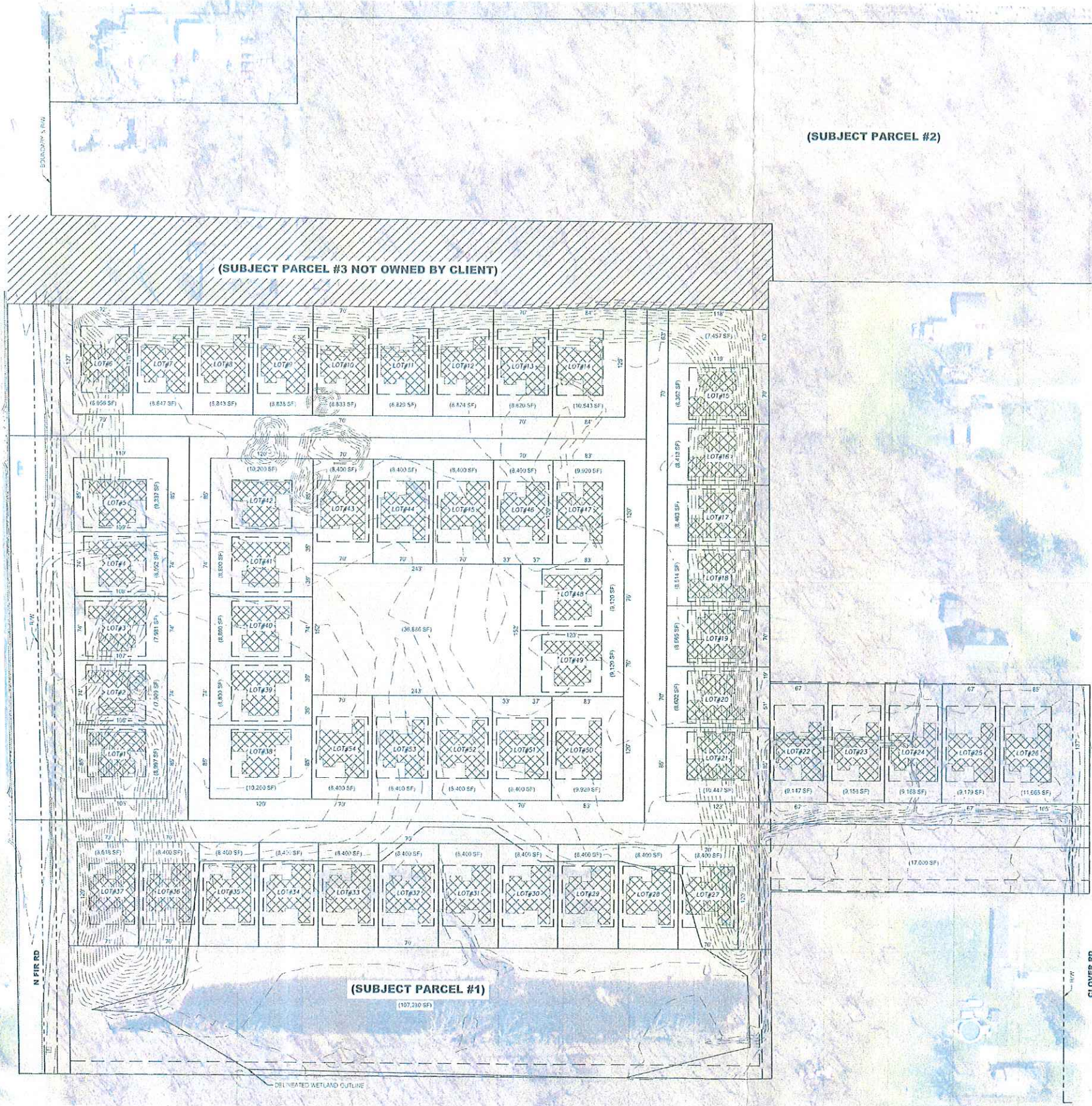
P3. Looking northeasterly from the south access drive to the adjacent apartments toward the property.



P4. Looking east from Fir Road toward the north part of the property.



P5. Looking west from Clover Road toward the southeast corner of the property.



PK 24-03

Received

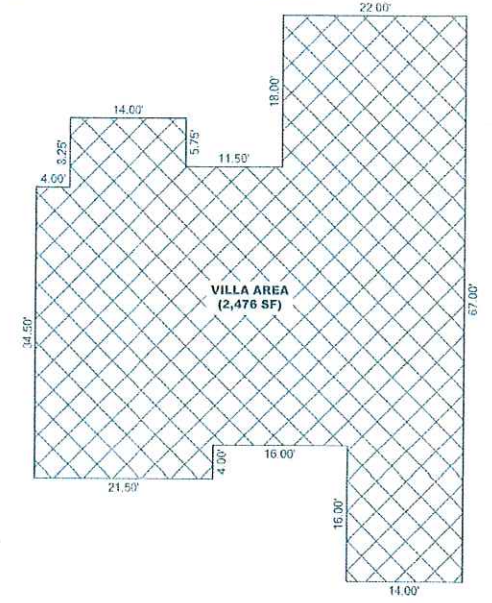
MAY 17 2024

Planning and
Community Development

(SUBJECT PARCEL #3 NOT OWNED BY CLIENT)

(SUBJECT PARCEL #2)

(SUBJECT PARCEL #1)



TYPICAL VILLA DETAIL
SCALE: 1" = 10'

ZONING SETBACKS
(R-1, RESIDENTIAL DISTRICT)

- FRONT SETBACK = NON-THROUGH LOT: 25 FT. MINIMUM
THROUGH LOT: 25 FT. MINIMUM AT EACH END OF THE LOT
- SIDE SETBACK = 5 FT. MINIMUM
- REAR SETBACK = NON-THROUGH LOT: 25 FT. MINIMUM
THROUGH LOT: 25 FT. MINIMUM AT EACH END OF THE LOT
- HEIGHT = 35 FT. MAXIMUM
- LOT AREA = 6,600 SF MINIMUM
- FRONTAGE = 60 FT. MINIMUM

SUMMARY

TOTAL LOTS = 54 LOTS
TOTAL STREET LENGTH = 4,510± FT
DENSITY (LOTS / AC.) = 2.84±

May 17 2024
Planning and
Community Development

BFA BERTSCH-FRANK & ASSOCIATES
LAND SURVEYING & CONSULTING
LAND PLANNING
811 LAWRENCE DRIVE
FORT WAYNE, IN 46804
TELEPHONE (260) 459-8883
FACSIMILE (260) 459-9303

R & R Excavating, Inc

Preliminary SD Layout #1
Fir Road Subdivision
St. Joseph County
Mishawaka, Indiana 46545

REVISIONS		
MARK	DATE	DESCRIPTION

CAD FILE	24037 SD.dwg
DRAWN BY	USC MGB
CHECKED BY	MCB
DATE	05/09/2024
PRJCT NO.	24027.100

SD#1

Schematic Design #1
SCALE: 1" = 60'
NORTH

THE AERIAL SHOWN ABOVE IS DATED 2016

RESOLUTION NO. R2024 – 10

A Resolution of the Common Council of the City of Mishawaka amending Resolutions R2022-10, R2022-22, R2023-03, R2023-12, and R2023-25 which Adopted a Plan for Distribution of the Proceeds of the City of Mishawaka's Grant from the American Rescue Plan Act of 2021

WHEREAS, the federal government enacted the American Rescue Plan Act of 2021 (ARPA) on or about March 11, 2021; and

WHEREAS, on or about May 17, 2021, the Common Council of the City of Mishawaka adopted Ordinance 5744, thereby establishing the ARPA Coronavirus Local Fiscal Grant Fund #180 in order to hold and receive ARPA monies allocated to the City in 2021 and 2022; and

WHEREAS, the terms of Ordinance 2021-16 and the relevant requirements of the ARPA require the Common Council to adopt a plan that details the use of ARPA funds.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Mishawaka as follows:

Section I – General Terms

- A. The City's distribution of the ARPA funds detailed in this Plan and any future amendments to this Plan shall be limited to the following uses of the funds authorized by the ARPA statute:
 1. To respond to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19) or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;
 2. To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers of the City that are performing such essential work, or by providing grants to eligible employers that have eligible workers who perform essential work;
 3. For the provision of government services to the extent of the reduction in revenue of the City due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year of the City prior to the emergency, that being 2019; or
 4. To make necessary investments in water, sewer, or broadband infrastructure.
- B. The Common Council may amend this Plan to comply with ARPA, any subsequent amendments to ARPA, and the rules adopted by the United States Treasury Department to implement ARPA, including the Interim Final Rule (31 CFR Part 35).

- C. Prior to the disbursement of any ARPA funds, the Common Council, as the fiscal body, must appropriate said funds for a use that is consistent with the statutory purposes set out above.
- D. The Plan's procedures and designated uses for distribution of ARPA funds are stated in the following sections below, as from time to time may be amended.

Section II – Premium Pay to Eligible Employees

- A. The Common Council finds that all employees of the City of Mishawaka, including employees of the Mishawaka Municipal Utilities, who worked for the City of Mishawaka from the start of the COVID-19 public health emergency through November 30, 2021, performed duties that were critical to protecting the health and wellbeing of the community. These City employees put their physical wellbeing at risk to meet the daily needs of the community and to provide care for others. To the extent necessary under the terms of Section 603(g)(2) of the ARPA, the Mayor of Mishawaka has also deemed each employee described above to have performed essential work critical to protect the health and well-being of residents. Therefore, all of the above-described employees who are employed by the City as of November 30, 2021, are hereby designated as "eligible employees" pursuant to Section 603(g)(2) of the ARPA and so shall be eligible to receive premium pay pursuant to the ARPA.
- B. The City will issue "premium pay" to all "eligible employees", including department heads, for all hours worked during the relevant time period that constituted "essential work", which is defined by the Interim Final Rule as "work involving regular in-person interactions or regular physical handling of items that were also handled by others." An employee will be deemed to not have engaged in essential work, and accordingly may not receive premium pay, for telework performed from a residence. The term "hours worked", as used in this subsection, does not include vacation time, sick time, COVID-19 time, holiday time, or any other non-worked time. The hours and time records of each "eligible employee" have been reviewed and determined to accurately demonstrate the number of "hours worked" at "essential work" performed by each "eligible employee". All such reviews and any "premium pay" payments to "eligible employees" will be subject to the Internal Controls policy previously adopted by the City of Mishawaka in Ordinance No. 5532, amended by Ordinance No. 5639.
- C. The Common Council finds that the "premium pay" that is established in this Plan responds to the "essential work" performed by "eligible employees" by addressing the heightened risk to essential workers who were required, and continue to be required, to be physically present at their assigned work location during the COVID-19 public health emergency.
- D. Eligible employees shall receive premium pay calculated at an hourly rate not to exceed Thirteen and 00/100 Dollars (\$13.00) per hour and further capped at the gross amounts set out below:

1. Lead Medic	\$3,000.00
2. Sworn Fire and Police	\$2,500.00
3. Non-Lead Medic and Advanced EMT	\$1,000.00
4. Teamsters and Certain IT Employees	\$2,000.00
5. Civil City Full Time Employees	\$1,570.00

(Includes Park, Redevelopment and Utility employees)

- E. To the extent that the “premium pay” established by this Plan increases total compensation for certain employees during the relevant time period above One Hundred Fifty Percent (150%) of Indiana’s average annual wage for all occupations, as defined by the Bureau of Labor Statistic’s Occupational Employment and Wage Statistics, or the employee’s residing county’s average annual wage, as defined by the Bureau of Labor Statistics’ Occupational Employment and Wage Statistics, whichever is higher, on an annual basis, the Common Council finds that the employee’s receipt of “premium pay” is justified and responsive to the needs of employees performing essential work during the public health emergency as required by the Interim Final Rule. Specifically, the Common Council has determined that the “premium pay” calculation set forth above is appropriate given the known and potential risks that all eligible employees faced while performing essential work on behalf of the citizens of Mishawaka, given that City services have continued without interruption during the public health emergency. Furthermore, the Common Council has determined that the receipt of “premium pay” by all “eligible employees” serves the best interests of the community by promoting the retention of the highly qualified essential employees that Mishawaka is dependent upon to continue to provide essential services as the public health emergency remains ongoing. Finally, the Common Council finds the receipt of premium pay by all eligible workers serves the best interests of the community by facilitating the maintenance of employee morale and equity between various employee work groups. The Common Council also finds that the varying levels of maximum “premium pay” set forth in Section II.D. are justified and have been set in light of unique risks and duties the applicable employees faced and carried out during the public health emergency.
- F. The “premium pay” established by this Plan and received by “eligible employees” shall be reduced by appropriate deductions for any applicable federal, state, or local taxes. Furthermore, the City will use ARPA funds in order to satisfy related social security, Medicare, and mandatory retirement plan contributions that are attributable to “premium pay”, as required by Indiana law.
- G. Additional premium pay will be awarded to eligible full-time employees employed on March 1, 2023 at the amount of \$1,000 each. The payment of this additional premium pay is subject to approval by the Common Council and Mayor of the corresponding salary amendment ordinance and appropriation ordinance (Proposed Ordinances No. 2023 – 03, 04, and 05)

Section III – Reduction in Revenue Due to the COVID-19 Public Health Emergency

- A. On January 6, 2022, the U.S. Department of the Treasury adopted a Final Rule implementing the Coronavirus State and Local Fiscal Recovery Funds (SLFRF). By agreement with the Mayor and the Administration, the Common Council elects to use the “Standard Allowance” as indicated in the Final Rule, up to the grant amount, but not to exceed the sum of Ten Million and 00/100 Dollars (\$10,000,000.00).
- B. Consistent with the terms of the Final Rule and any future guidance issued by the U.S. Department of the Treasury, all sums expended for the replacement of lost revenue via the Standard Allowance must be used to fund allowable “government services.”
- C. The expenditure of these funds shall remain subject to further amendment of this Resolution and Plan, as well as the approval of an additional appropriation.
- D. As part of the replacement of lost revenue referenced above, the following grants and subsidies are approved, subject to the separate approval of a corresponding appropriations ordinance (Proposed Ordinance No. 2022-29):
 - 1. Boys and Girls Club \$750,000.00
 - 2. Youth Services Bureau \$375,000.00
 - 3. Troop Town \$325,000.00
 - 4. Mishawaka Building Trades \$275,000.00
 - 5. M-P-H Public Library \$50,000.00
 - 6. The Res \$35,000.00
- E. The receipt of the grants and subsidies set out above shall be subject to the individual recipient’s execution of and compliance with the required Mishawaka Coronavirus Relief Grant Program Sub-Recipient Agreement, a true and accurate copy of which is attached hereto and incorporated by reference as is fully set out herein as Exhibit “A.”
- F. As part of the replacement of lost revenue referenced above, six firefighters and six police officers are approved for the 2023 fiscal year City budget from ARPA funds. This total budgeted amount is \$800,000.00.
- G. As part of the replacement of lost revenue referenced above, the following infrastructure project is approved, subject to the separate approval by the Common Council and Mayor of a corresponding appropriations ordinance (Proposed Ordinance No. 2023 – 05). A total of \$5.5 million was approved and the project breakdown is amended with the addition of CSO 23A Project. Replacement Revenue is amended here to move the CSO 23A project to Section IV under investments in water and sewer infrastructure.
 - 1. West Street Phase IIIB - \$4.6 million – this project includes water main upsizing throughout project limits, new trunk storm sewer, reconstructed sanitary and water laterals, new concrete curb, ADA sidewalk and crossings, street trees, and full depth asphalt pavement.

- H. To assist the City's long term goal of the development of single family homes, \$2,000,000.00 of revenue replacement funds will be allocated to Habitat for Humanity. Previous partnerships with this developer have been very successful, and potential development will be targeted in the McKinley Avenue corridor where the City desires to improve the appearance and function of the area while providing affordable homes in the School City of Mishawaka district. This transaction is subject to the approval of the MOU with the Redevelopment Commission, the Mayor and Common Council and the approval of the corresponding additional appropriation.

Section IV – To make necessary investments in water, sewer, or broadband infrastructure

- A. To assist in meeting the critical need for investments and improvements to existing infrastructure in water, sewer, and broadband, the Fiscal Recovery Funds provide funds to State, local, and Tribal governments to make necessary investments in these sectors.
- B. By permitting funds to be used for water and sewer infrastructure needs, Congress recognized the critical role that clean drinking water and services for the collection and treatment of wastewater and stormwater play in protecting public health.
1. CSO 23A (LTCP) – \$900,000 – full length of Manor Drive and Manchester Drive, north of Lincolnway East. This project includes extensive water main replacement with upsizing water main diameter and looping for fire capacity, lead service replacement, new storm sewer including sewer separation with reconfiguration of CSO 23A, sanitary lateral replacement, new concrete curb and gutter, new ADA ramps and sidewalk, and full depth pavement replacement.

Section V – Conclusion

- A. This Plan is subject to amendments as more permitted uses are determined by the ARPA, U.S. Treasury Department guidance, and as priorities for the City develop.
- B. This Resolution and the Plan contained shall be in full force and effect upon passage by the Common Council and approval by the Mayor.

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of _____, 2024, at _____ o'clock _____. m.

Gregg A Hixenbaugh, Presiding Officer

ATTEST:

Deborah S. Block, IAMCA, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____ 2024,
at _____ o'clock _____. m.

Deborah S. Block, IAMCA, MMC, City Clerk

APPROVED by me this _____ day of _____ 2024, at _____
o'clock _____. m.

David A. Wood, Mayor



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF FINANCE
Rebecca S. Maguire, Controller
Kayla Yoder, Deputy Controller

Date: June 3, 2024
To: Honorable Members of the Common Council
From: Rebecca Maguire
Re: **Resolution to amend the ARPA Plan and corresponding additional appropriation**

For your approval on first reading is an amendment to the ARPA plan and the corresponding additional appropriation. Following federal guidelines, as uses for the ARPA funds are determined, the plan must be amended. In section III, subsection H, you'll find the description of the \$2,000,000 disbursement to Habitat for Humanity that is earmarked for the purchase of land and development of affordable single family homes in the McKinley Avenue corridor.

Please contact me or Ken Prince with any questions.

c: David A. Wood – Mayor
Ken Prince – Executive Director of Economic Development

JUN 05 2024

City Clerk
Mishawaka, IN

**RESOLUTION NO. 2024-11
Miscellaneous Property Acquisitions**

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF
MISHAWAKA, INDIANA, ADDING PARCELS TO THE CITY'S
PROPERTY ACQUISITION LIST ASSOCIATED WITH A PREVIOUSLY
APPROVED COMMON COUNCIL RESOLUTION 2014-07 WHICH
APPROVED AN ORDER OF THE CITY OF MISHAWAKA PLAN
COMMISSION APPROVING A CERTAIN DECLARATORY
RESOLUTION, AN AMENDMENT TO THE BOUNDARIES OF THE
NORTHWEST AREA IMPROVEMENT PROJECT, CONSOLIDATION
OF THE SOUTHSIDE ECONOMIC DEVELOPMENT AREA AND THE
NORTHWEST IMPROVEMENT PROJECT INTO ONE
CONSOLIDATED AREA IMPROVEMENT PROJECT, AND AN
AMENDMENT TO THE ECONOMIC DEVELOPMENT PLAN FOR THE
CONSOLIDATED AREA IMPROVEMENT PROJECT ADOPTED BY
THE CITY OF MISHAWAKA REDEVELOPMENT COMMISSION**

WHEREAS, on February 24, 2014, the City of Mishawaka Redevelopment Commission (the "Commission") approved and adopted its Resolution No. 2014-03 entitled "Resolution of the City of Mishawaka Redevelopment Commission Designating and Declaring Certain Areas as Economic Development Areas, Amending the Boundaries of the Northwest Area Improvement Project, Consolidating the Southside Economic Development Area and the Northwest Area Improvement Project Into One Area, And Amending the Economic Development Plan for the Consolidated Area Improvement Project" (the "Declaratory Resolution"); and

WHEREAS, the Declaratory Resolution (i) designated and declared certain areas within the City of Mishawaka, Indiana (the "City") to be economic development areas (the "Expansion Areas") for purposes of tax increment financing pursuant to Section 39 of Indiana Code 36-7-14 (the "Act") to expand the existing Northwest Area Improvement Project (the "Northwest Area"); (ii) removed certain parcels from the Northwest Area; (iii) consolidated the Southside Economic Development Area (the "Southside Area") and the Northwest Area into one area (to be known as the Consolidated Area Improvement Project) (the "Consolidated Area"); and (iv) approved an amendment (the "Plan Amendment") to the Economic Development Plan for the Northwest Area (the "Economic Development Plan") to provide for such Economic Development as amended to serve as the economic development plan for the Consolidated Area Improvement Project (as amended by the Plan Amendment shall hereinafter be referred to as the "Economic Development Plan"); and

WHEREAS, on March 11, 2014, the City of Mishawaka Plan Commission (the "Plan Commission") adopted and approved its resolution 2014-01, determining that the Declaratory Resolution and the Economic Development Plan, as amended by the Plan Amendment, conform to the plan of development for the City and approving, ratifying and

confirming the Declaratory Resolution and the Economic Development Plan, as amended by the Plan Amendment, and designated such resolution as the written order of the Plan Commission approving the Declaratory Resolution and the Economic Development Plan, as amended by the Plan Amendment, as required by Section 16 of the Act (the "Plan Commission Order"); and

WHEREAS, Section 16 of the Act prohibits the Commission from proceeding until the Plan Commission Order is approved by the legislative body of the City; and

WHEREAS, the Common Council of the City (the "Common Council") previously approved the Plan Commission Order by Common Council Resolution 2014-07; and

WHEREAS, as part of the previous approval various public improvement projects were listed as part of the Economic Development Plan; and

WHEREAS, a number of those projects including the acquisition of blighted properties and improvements widening Union Street in the area improvement project were included in the economic development plan; and

WHEREAS, the Administration is asking the legislative body for its review and approval of adding certain properties to the City's acquisition list to implement a portion of these projects; and

WHEREAS, the description of the properties that are proposed to be added are as follows:

- 1123 South Union Street, Lots 2 & 3 Meunincks Revised Plat Sec 21-37-3E 11/12 cons w/6280 per Penn Assessor req., Tax Parcel # 016-1157-6281

Together with:

- 1612 South Union Street. Lot 3a Fords Resub Of Littles Minor Sub 03-04 New Replat Tr 7-17-02 5098. Tax Parcel 027-1001-0172

NOW, THEREFORE, BE IT RESOLVED, by the Common Council of the City of Mishawaka, Indiana, as follows:

1. The referenced parcels are hereby added to the City's acquisition list as part of the consolidated area improvement projects
2. This Resolution shall be in full force and effect from and after its passage by the Common Council.

Passed and adopted at a meeting of the Common Council of the City of Mishawaka, Indiana, held on June 17, 2024.

COMMON COUNCIL OF THE
CITY OF MISHAWAKA, INDIANA

Gregg Hixenbaugh, President

ATTEST:

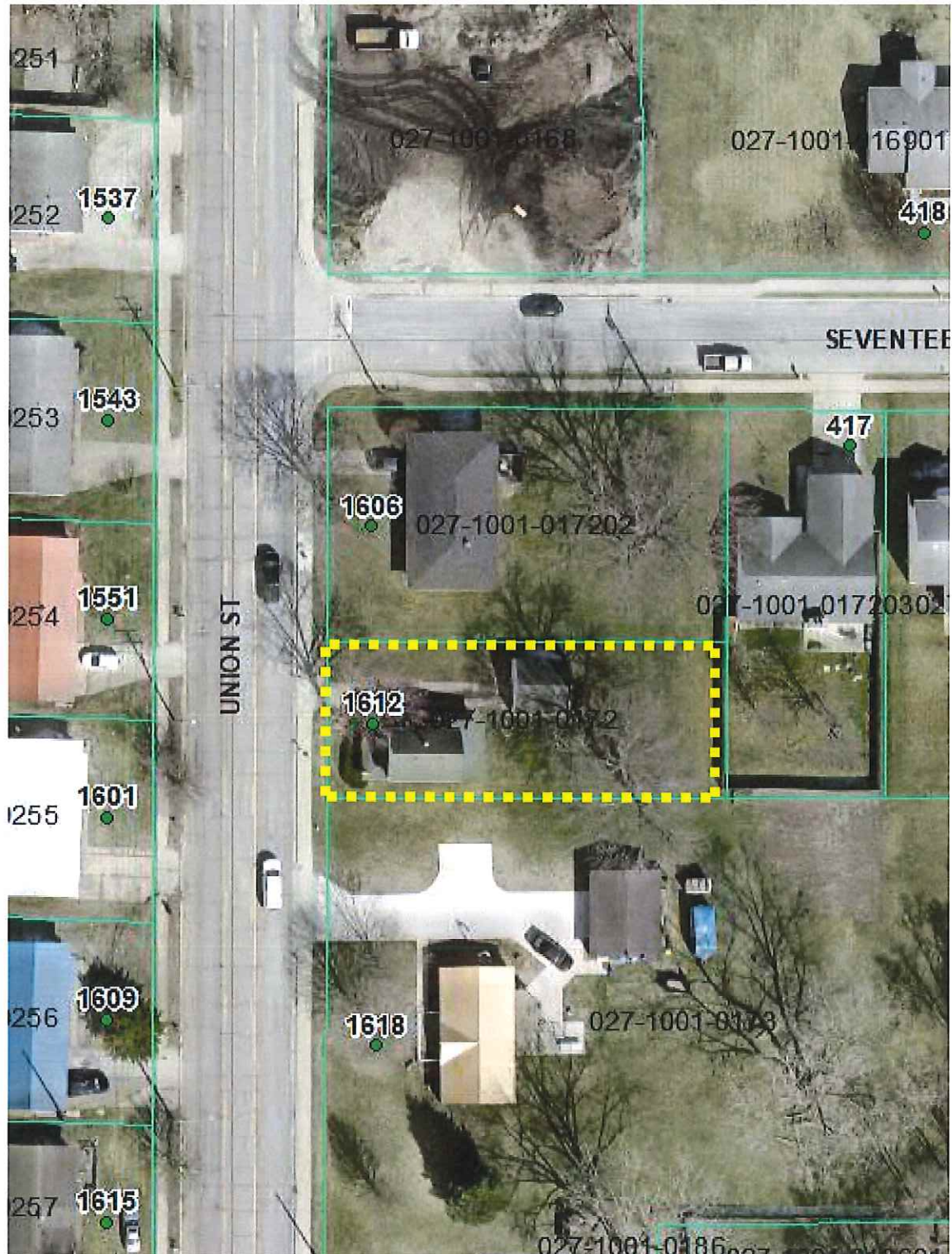
Deborah S. Block
Clerk of the City of Mishawaka, Indiana

Presented by me to the Mayor of the City of Mishawaka, Indiana, on the _____
day of June _____, 2024, at the hour of _____ .m.

Deborah S. Block
Clerk of the City of Mishawaka, Indiana

This Resolution approved and signed by me on the ____ day of June, 2024, at the
hour of _____ .m.

David A. Wood
Mayor of the City of Mishawaka, Indiana



Location Map- 1612 South Union Street



Location Map- 1123 South Union Street

BUY AND SELL AGREEMENT

THIS AGREEMENT made and entered into as of the 24th day of June, 2024 by and between Daniel Maguire, hereinafter referred to as “Seller”, and **CITY OF MISHAWAKA**, acting by and through its Redevelopment Commission, hereinafter referred to as “Buyer”, All of St. Joseph County, State of Indiana,

WITNESSETH THAT:

The Seller promises and agrees to sell and convey to the Buyer, and the Buyer promises and agrees to purchase of and from the Seller, for the sum of **One Hundred and Thirty Nine Thousand and Nine Hundred dollars (\$139,900)**, the property’s located at 1612 South Union Street, City of Mishawaka, 46544 St. Joseph County, Indiana, more particularly described as follows:

Lot 3a Fords Resub Of Littles Minor Sub 03-04 New Replat Tr 7-17-02 5098
Parcel Number: 027-1001-0172

This purchase is contingent on the following:

1. Upon the Seller’s approval of his agreement, the Buyer will order two appraisals of the properties. If the average of the two property appraisals is equal to or greater than \$139,900, the purchase price shall be \$139,900. If the average of the two appraisals is below \$139,900, the purchase price may be the average of the two property appraisals if approved by the Seller, or other price as negotiated and agreed to by both the Buyer and Seller.
2. As a public entity, the Buyer is subject to specific purchasing laws identified by the Indiana Code. This includes adding this property to an official acquisition list that requires the approval of the Common Council of the City of Mishawaka.
3. Unless mutually agreed to prior to closing, Seller shall remove any items, material, or debris stored within the building and properly dispose of any chemicals or materials in accordance with applicable laws and restrictions.

Subject to and upon the terms and conditions hereinafter set forth:

1. Buyer shall obtain, at Buyer's expense, a commitment for the purchase price Owner's Policy of Title Insurance in which the title insurance company shall agree to insure merchantable title in the name of the Buyer after delivery of a Deed to Buyer from Seller. Any defects in title which tend to render the same un-merchantable shall be submitted by the Buyer to the Seller in writing and the Seller shall be given reasonable time to correct the same. If the Seller shall fail or refuse to cause such defects to be corrected, Buyer shall have the option of accepting title subject to defects, or of terminating this Agreement.
2. After the title to the described real estate has been approved by the Buyer, and upon payment of the balance of the purchase price by the Buyer to the Seller, the Seller shall execute and deliver a Warranty Deed conveying the real estate above described to the Buyer, free and clear of all liens and encumbrances, except as provided herein, and subject to all covenants, restrictions, easements, and zoning ordinances of record.
3. It is understood and agreed by the parties hereto that Buyer is purchasing the real estate and personal property covered by this agreement in an "as is" condition and that Seller has made no guarantees or warranties, expressed or implied, concerning said personal property, real estate, or any improvements thereon.
4. Pending the timely delivery of the aforementioned appraisals, this Transaction shall be closed as soon as possible following the execution of the agreement, but no later than the 19th day of July, 2024. This time may be moved up or back by mutual agreement of both the Buyer and the Seller.

5. Seller shall deliver possession of the real estate above described to the Buyer at the time of closing. The Seller has identified that no tenants are currently residing on the property. Furthermore, the Seller agrees to deliver possession to the buyer with no tenants occupying the premises nor with any tenants holding any lease hold interest in the property. The Buyer shall be permitted to inspect the premises on the day of closing to insure the building is not occupied.
6. Seller, at his option, shall have the right to limited salvage rights in the real estate. All such salvage rights are to be approved by the Buyer prior to Seller exercising his salvage rights. Salvage shall specifically not include anything that would structurally modify or impact the structure. As part of any salvage, the Seller shall be responsible for maintaining a secure structure not creating any openings that would freely allow birds, animals, or people to enter the building. The Seller shall have the time up to the closing of the transaction to complete any salvage work.
7. Risk of loss or damage to any improvements located upon the real estate above described shall remain with the Seller until the time of delivery of the Warranty Deed conveying title from Seller to Buyer and possession of the premises by Buyer.
8. Seller acknowledges that because Federal Funds may be used by the Buyer in the purchase of the subject property that the sale on behalf of the Seller is voluntary. Seller further acknowledges that the Buyer will not use the power of eminent domain to acquire the property. Seller acknowledges that the estimate of the fair market value of the property is \$139,900. Seller further acknowledges that since the purchase is a voluntary, arm's length transaction, Seller would not be eligible for relocation payments or other relocation assistance under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), or any other law or regulation.

9. Seller shall pay any unpaid taxes and assessments for prior years. Taxes for the year 2024, payable in 2025, shall be prorated to the date of closing based upon the last official tax rate.
10. The covenants, agreements, and conditions herein contained shall be binding upon the parties hereto and shall also extend to and be binding upon their respective heirs, legal representatives, and assigns.
11. The seller shall assist with and provide any documentation relative to known environmental conditions on the property including but not limited to underground tanks and other existing conditions on the property of an environmental nature. This shall include providing the buyer with any existing environmental reports such as a Phase 1 or Phase 2 environmental studies, if they exist.
12. Vendor's Affidavit. Seller shall provide Buyer with an executed Vendor's Affidavit at the Closing in form acceptable to the Title Company.
13. In addition to any other obligations assumed by the Buyer hereunder, Buyer shall pay, for deed preparation, Title Company closing fees, plus the costs associated with recording the deed.
14. Seller shall be responsible for maintaining the property until Closing and for paying for all necessary maintenance and repairs. Seller shall also maintain a proper insurance on the property until Closing, fully insuring it against loss.
15. In the event that the Seller or Buyer breaches any of the terms of this Agreement and the party not in default employs attorneys to protect or to enforce its rights hereunder and prevails, then the party in default agrees to pay all reasonable costs, attorney fees, and expenses incurred by the party not in default in enforcing the covenants and agreements contained herein.
16. No modification to this Agreement shall be valid unless in writing and signed by all parties.

17. If any provision of this Agreement is deemed void or unenforceable, the same shall in no way impair the validity or enforceability of any other provisions of this Agreement, which shall remain in full force and effect.

18. It is expressly agreed and understood that this Agreement contains all of the agreements of the parties and that no verbal agreements of any kind shall be binding upon the parties.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

BUYER

SELLER

CITY OF MISHAWAKA, acting by and
Through its Redevelopment Commission
By:

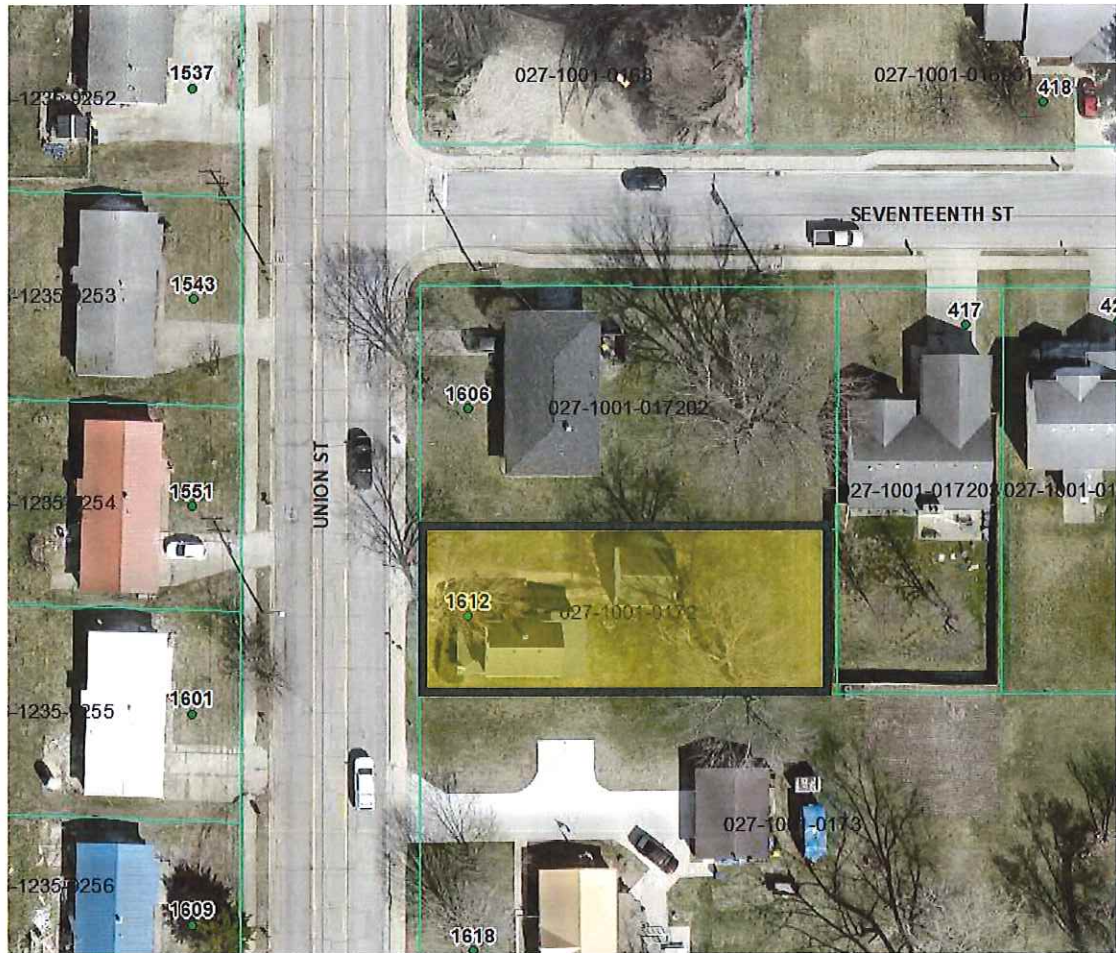
Daniel Maguire

Janet Whitfield-Hyduk, President

Daniel Maguire
Daniel Maguire

May 21, 2024 | 3:20 PM EDT

Kris Ermeti, Secretary



Location

Map:



1612 South Union Street

JUN 12 2024

City Clerk
Mishawaka, IN

RESOLUTION NO. 2024-12

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA
APPROVING AN AGREEMENT EXTENDING THE ST. JOSEPH COUNTY HOUSING
CONSORTIUM AND AUTHORIZING THE EXECUTION THEREOF

WHEREAS, ON November 28, 1990, the National Affordable Housing Act (NAHA) of 1990, also known as the Cranston-Gonzales Act, became law, to implement its stated goal that every American family be able to afford a decent home; and

WHEREAS, NAHA requires any governmental unit to formulate and submit appropriate plans in order to be eligible to receive funds from several existing federal programs, including Community Development Block Grants (CDBG), the HOME Investment Partnership Program (HOME), Emergency Solutions Grants (ESG), as well as to be eligible to receive funds from new housing assistance programs created by NAHA; and

WHEREAS, NAHA provides for the designation of geographically contiguous units of general local government to participate as consortia in, and thereby be considered a single unit of general local government, for purposes of HOME; and

WHEREAS, I.C. 36-1-7, the Interlocal Cooperation Act, authorizes one or more governmental entities to exercise, jointly or by one entity on behalf of the others, powers that may be exercised by such units severally; and

WHEREAS, pursuant to the Interlocal Cooperation Act, the Cities of South Bend and Mishawaka, and the County of St. Joseph, being contiguous units of general local government have formed the St. Joseph Housing Consortium, which, by agreement of the member entities, is to terminate on December 31, 2024; and

WHEREAS, the Cities of South Bend, Mishawaka, and St. Joseph County are desirous of extending the Consortium for the purposes of receiving an allocation and participating in the HOME, CDBG, ESG, and all other housing programs administered by HUD for which they may be eligible, and for the purpose of cooperating to undertake or to assist in the undertaking of housing assistance activities for HOME and other HUD programs, including using a January 1 start date for each program year; and

WHEREAS, the Cities of South Bend, Mishawaka, and St. Joseph County are desirous of changing the Agreement to automatic renewals for which a new three-year resolution and agreement will not be required, subject to the amendment and "right to not participate" processes set forth in the Agreement; and

WHEREAS, substantially similar resolutions will be approved by the South Bend Common Council and the St. Joseph County Council.

NOW, THEREFORE, AND PURSUANT TO THE AUTHORITY GRANTED THE COMMON COUNCIL OF MISHAWAKA, INDIANA UNDER I.C. 36-1-7, THE INDIANA INTERLOCAL COOPERATION ACT, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF MISHAWAKA AS FOLLOWS:

Section I. THAT The Common Council of the City of Mishawaka, Indiana has considered and hereby approves the extension of and participation in the St. Joseph County Housing Consortium for purpose of the formulation, update, submission, and implementation of applicable plans and programs and the implementation if the HOME Investment Partnerships Program (HOME), Community Development Block Grant (CDBG), Emergency Solutions Grant (ESG), and other housing assistance programs funded by the Department of Housing and Urban Development (HUD) under the National Affordable Housing Act of 1990 (NAHA).

Section II. THAT The Common Council of the City of Mishawaka, Indiana hereby authorizes the Mayor to enter into an Agreement extending the St. Joseph County Housing Consortium, in form and substance the same as or similar to that of the Agreement attached hereto.

Section III. THAT The Common Council of the City of Mishawaka, Indiana hereby confirms its commitment to the goals and the reality of fair housing within the City of Mishawaka.

Section IV. This resolution shall be in full force and effect from and after its adoption by the Common Council and approval by the Mayor and shall remain in effect with automatic renewals, subject to the amendment and "right to not participate" processes set forth in the Agreement.

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of _____, 2024 at _____ o'clock _____.M.

Gregg Hixenbaugh, President

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____, 2024 at _____ o'clock _____.M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2024 at _____ o'clock _____.M.

David Wood, Mayor, City of Mishawaka

RESOLUTION NO. 2024 - 13

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF
MISHAWAKA, INDIANA, APPROVING THE REQUEST FOR THE INDIANA
STATE BOARD OF ACCOUNTS TO EXAMINE THE FINANCIAL
STATEMENTS PREPARED IN ACCORDANCE WITH GAAP (GENERALLY
ACCEPTED ACCOUNTING PRINCIPLES)**

WHEREAS, on January 20, 2021, the Indiana State Board of Accounts amended State Examiner Directive 2015-4;

WHEREAS, this directive applies to all audited entities subject to examination under IC 5-11-1, except the States, Universities, and any audited entity required to present GAAP statements under IC 5-1-11.5;

WHEREAS, IC 5-1-11.5-4 requires municipalities with populations of more than 75,000 to prepare financial statements using the modified accrual basis of account in accordance with GAAP prior to issuing any bonds;

WHEREAS, the City of Mishawaka is not required to present GAAP financials and must adopt a resolution by the legislative body approving to request the State Board of Accounts to examine the financial statements prepared in accordance with GAAP;

NOW THEREFORE, BE IT RESOLVED by the Common Council of the City of Mishawaka, Indiana, approves the request of the State Board of Accounts to examine the City of Mishawaka 2023 GAAP Financial Statements.

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of _____ 2024, at _____ o'clock _____. m.

Gregg Hixenbaugh, President

ATTEST:

Deborah S. Block, IAMCA, MMC, City Clerk

PRESENTED by me to the Mayor this ____ day of _____ 2024, at _____ o'clock _____. m.

Deborah S. Block, IAMCA, MMC, City Clerk

APPROVED by me this _____ day of _____, 2024, at _____ o'clock _____. m.

David A. Wood, Mayor

1st Reading 4-22-24

2nd Reading

Passed

Failed

Continued To

PETITION 24-05

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2024-08

ORDINANCE NO. _____

Deborah S. Block, IAC, MMC

APR 15 2024

City Clerk
Mishawaka, IN

AN ORDINANCE AMENDING CHAPTER 137, OF THE MUNICIPAL
CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME
AMENDED, COMMONLY KNOWN AS "THE ZONING ORDINANCE OF 1966" OF
THE CITY OF MISHAWAKA, INDIANA.

WHEREAS, the Plan Commission of the City of Mishawaka, Indiana, has recommended the reclassification of the zoning as herein set forth of the real estate hereinafter described.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, that:

Section 1. Chapter 137, of the Municipal Code of the City of Mishawaka, commonly known as "The Zoning Ordinance of 1966", be, and the same is hereby amended as follows:

The following described real estate in the City of Mishawaka, Penn Township, St. Joseph County, State of Indiana, to-wit:

PARCEL 1:

PART OF LOT NUMBERED EIGHT (8) AS SHOWN ON THE RECORDED PLAT OF HOGUE'S FARM SUBDIVISION, RECORDED IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA, IN PLAT BOOK 12, PAGE 16, AND FURTHER DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT 40 FEET WEST AND 35 FEET SOUTH OF THE NORTHEAST CORNER OF SAID SECTION 4 (SAID NORTHEAST CORNER IS LOCATED 660 FEET WEST OF THE EAST LINE OF LOT NUMBERED 8 IN SAID ADDITION), THENCE SOUTH 125 FEET; THENCE WEST 220 FEET; THENCE NORTH 125 FEET; THENCE EAST 220 FEET TO THE PLACE OF BEGINNING, IN ST. JOSEPH COUNTY, INDIANA.

LESS AND EXCEPTING THEREFROM THE FOLLOWING:

A PARCEL OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 38 NORTH, RANGE 3 EAST OF THE SECOND PRINCIPAL MERIDIAN IN PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SECTION 34; THENCE NORTH 89 DEGREES 57 MINUTES 53 SECONDS WEST (BASIS OF BEARINGS) ON THE NORTH LINE OF THE NORTHEAST QUARTER, A DISTANCE OF 40.00 FEET; THENCE SOUTH 00 DEGREES 09 MINUTES 43 SECONDS EAST, A DISTANCE OF 33.0 FEET TO THE SOUTH EXISTING RIGHT OF WAY OF DOUGLAS ROAD AND BEING THE POINT OF BEGINNING; THENCE NORTH 89 DEGREES 57 MINUTES 53 SECONDS WEST PARALLEL WITH THE NORTH LINE OF THE NORTHEAST QUARTER ON THE SOUTH EXISTING RIGHT OF WAY OF DOUGLAS ROAD, A DISTANCE OF 220.00 FEET; THENCE SOUTH 00 DEGREES 09 MINUTES 43 SECONDS EAST, A DISTANCE OF 12.00 FEET TO THE SOUTH PROPOSED RIGHT OF WAY OF DOUGLAS ROAD; THENCE SOUTH 89 DEGREES 57 MINUTES 53 SECONDS EAST ON SAID SOUTH PROPOSED RIGHT OF WAY, A DISTANCE OF 220.00 FEET, THENCE NORTH 00 DEGREES 09 MINUTES 43 SECONDS WEST, A DISTANCE OF 12.00 FEET TO THE POINT OF BEGINNING, CONTAINING 0.06 ACRES MORE OR LESS.

Proposed Ordinance No: 2024-08

Ordinance No: _____

PARCEL 2:

PART OF THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 38 NORTH, RANGE 3 EAST, DESCRIBED AS FOLLOWS:

BEGINNING ON THE NORTH LINE OF SAID SECTION 34, 260 FEET WEST OF THE NORTHEAST CORNER OF SAID SECTION 34; THENCE SOUTH, PARALLEL WITH THE EAST LINE OF SAID SECTION 34, 160 FEET; THENCE WEST, PARALLEL WITH THE NORTH LINE OF SAID SECTION 34, 233.17 FEET TO THE CENTER LINE OF FIR ROAD; THENCE NORTHWESTERLY, ON THE CENTER LINE OF FIR ROAD, 56.27 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT; THENCE CONTINUING ON SAID CENTER LINE OF FIR ROAD AND ON SAID CURVE, HAVING A RADIUS OF 4326.33 FEET, 137.93 FEET TO THE NORTH LINE OF SAID SECTION 34; THENCE EAST, ON THE NORTH LINE OF SAID SECTION 34, 43.33 FEET TO THE POINT OF BEGINNING, IN ST. JOSEPH COUNTY, INDIANA.

EXCEPTING, A PARCEL OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 38 NORTH, RANGE 3 EAST, OF THE SECOND PRINCIPAL MERIDIAN, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SECTION 34; THENCE NORTH 89 DEGREES 57 MINUTES 53 SECONDS WEST (BASIS OF BEARINGS), ON THE NORTH LINE OF THE NORTHEAST QUARTER OF SECTION 34, A DISTANCE OF 260.00 FEET; THENCE SOUTH 00 DEGREES 09 MINUTES 43 SECONDS EAST, A DISTANCE OF 33.00 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 00 DEGREES 09 MINUTES 43 SECONDS EAST, A DISTANCE OF 11.95 FEET; THENCE NORTH 89 DEGREES 57 MINUTES 53 SECONDS WEST, A DISTANCE OF 131.04 FEET; THENCE SOUTH 72 DEGREES 33 MINUTES 03 SECONDS WEST, A DISTANCE OF 68.80 FEET; THENCE SOUTH 02 DEGREES 55 MINUTES 30 SECONDS EAST, A DISTANCE OF 66.44 FEET; THENCE SOUTH 27 DEGREES 23 MINUTES 21 SECONDS EAST, A DISTANCE OF 31.58 FEET; THENCE NORTH 89 DEGREES 57 DEGREES 53 SECONDS WEST, A DISTANCE OF 14.52 FEET; THENCE NORTH 35 DEGREES 21 MINUTES 31 SECONDS WEST, A DISTANCE OF 155.79 FEET; THENCE SOUTH 89 DEGREES 57 MINUTES 53 SECONDS EAST, A DISTANCE OF 283.39 FEET TO THE POINT OF BEGINNING.

PARCEL 3:

PART OF THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 38 NORTH, RANGE 3 EAST, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT 160 FEET SOUTH AND 40 FEET WEST OF THE NORTHEAST CORNER OF SECTION 34, TOWNSHIP 38 NORTH, RANGE 3 EAST; THENCE WEST, PARALLEL WITH THE SOUTH LINE OF LOT SEVEN (7), IN THE RECORDED PLAT OF HOGUE MINUTES S FARM SUBDIVISION, A DISTANCE OF 413.7 FEET, MORE OR LESS, TO THE EASTERLY LINE OF FIR ROAD; THENCE SOUTHEASTERLY ALONG THE EASTERLY LINE OF FIR ROAD, 191.09 FEET, MORE OR LESS, TO THE SOUTHWESTERLY CORNER OF SAID LOT 7; THENCE EAST, ALONG THE SOUTH LINE OF SAID LOT 7, A DISTANCE OF 303.5 FEET, MORE OR LESS, TO A POINT 40 FEET WEST OF THE EAST LINE OF SAID SECTION 34; THENCE NORTH 157 FEET TO THE PLACE OF BEGINNING, AND BEING A PART OF LOT SEVEN (7) IN THE RECORDED PLAT OF HOGUE MINUTES S FARM SUBDIVISION, RECORDED AUGUST 10, 1935. IN PLAT BOOK 12, PAGES 16-17.

LESS AND EXCEPTING THEREFROM THE FOLLOWING:

A PARCEL OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 38 NORTH, RANGE 3 EAST OF THE SECOND PRINCIPAL MERIDIAN, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SECTION 34; THENCE NORTH 89 DEGREES 57 MINUTES 53 SECONDS WEST (BASIS OF BEARINGS), ON THE NORTH LINE OF THE NORTHEAST QUARTER OF SECTION 34, A DISTANCE OF 607.20 FEET; THENCE SOUTH 35 DEGREES 21 MINUTES 31 SECONDS EAST ON THE CENTERLINE OF FIR ROAD, A DISTANCE OF 196.27 FEET; THENCE SOUTH 89 DEGREES 57 MINUTES 53 SECONDS EAST, A DISTANCE OF 40.48 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 89 DEGREES 57 MINUTES 53 SECONDS EAST, A DISTANCE OF 14.52 FEET; THENCE SOUTH 27 DEGREES 23 MINUTES 21 SECONDS EAST, A DISTANCE 34.67 FEET; THENCE SOUTH 35 DEGREES 21 MINUTES 31 SECONDS EAST, A DISTANCE OF 160.76 FEET; THENCE SOUTH 54 DEGREES 38 MINUTES 29 SECONDS WEST, A DISTANCE OF 7.03 FEET; THENCE NORTH 35 DEGREES 21 MINUTES 31 SECONDS WEST, A DISTANCE OF 203.51 FEET TO THE POINT OF BEGINNING.

which real estate is now classified as C-1 General Commercial District shall hereafter be within and a part of that District known as C-10 Filling Station Commercial designated in "The Zoning Ordinance of 1966" as amended.

Section 2. The Common Council of the City of Mishawaka, Indiana, hereby finds that: UNFAVORABLE

1. The applicable Comprehensive Plan is from the Capital Avenue Land Use Plan that was done jointly with St. Joseph County- the site was identified as existing residential because of the homes that existed on the properties at the time and the site was not guided for future development. The home(s) previously located on the property were subsequently demolished or will be demolished as part of the proposed change in use. The undeveloped area south and east of the site behind the existing residential was guided for office park and medium density residential uses. As such, if it were not for the extenuating factors associated with the City wellfield the higher intensity commercial use of a convenience store/filling station is reasonably consistent with the comprehensive plan.
2. Current conditions and the character of current structures and uses in each district – The current conditions warrant the existing commercial zoning that exists for the property being located at the hard corner of two heavily travelled roadways. The proposed change to allow for a filling station is not appropriate given that the site is located within the 1-year time of travel for the recently completed Juday Creek Municipal Wellfield. Underground storage tanks holding large volumes of petroleum products, despite the increases made in the technology still poses a potential risk to the Juday Creek Wellfield.
3. The most desirable use for which the land in each district is adopted – The most desirable use for the property is commercial given that it is located at the hard corner of two heavily travelled roadways. The proposed change to filling station commercial is not desirable given that the site is located within the 1-year time of travel for the recently completed Juday Creek Municipal Wellfield. Underground storage tanks holding large volumes of petroleum products, despite the increases made in the technology still poses a potential risk to the Juday Creek Wellfield.
4. The conservation of property values throughout the jurisdiction – The most impacted properties from the proposed change are the existing single family homes in close proximity to the site. The proposed change is consistent with the continued change to commercial rather than residential uses in the area. Provided the proposed development includes landscaping and buffering consistent with the City's development standards while still allowing for access easements connecting to adjacent properties, the existing residential value should be reasonably conserved while still potentially allowing for the future conversion/higher value of commercial development in the future.

Ordinance No: _____

5. Responsible development and growth - The proposed change to filling station commercial is not desirable given that the site is located within the 1-year time of travel for the recently completed Juday Creek Municipal Wellfield. Underground storage tanks holding large volumes of petroleum products, despite the increases made in the technology still poses a potential risk to the Juday Creek Wellfield.

FAVORABLE

1. The applicable Comprehensive Plan is from the Capital Avenue Land Use Plan that was done jointly with St. Joseph County- the site was identified as existing residential and not guided for future development. The home(s) previously located on the property were subsequently demolished or will be demolished as part of the proposed change in use. The undeveloped area south and east of the site behind the existing residential was guided for office park and medium density residential uses. As such, the higher intensity commercial use of a convenience store/filling station is reasonably consistent with the comprehensive plan.
2. Current conditions and the character of current structures and uses in each district - The current conditions warrant the existing commercial zoning that exists for the property being located at the hard corner of two heavily travelled roadways. The proposed change to allow for a filling station is appropriate despite that the site is located within the 1-year time of travel for the recently completed Juday Creek Municipal Wellfield. We believe that the underground storage tanks holding large volumes of petroleum products does not pose a substantial risk to the Juday Creek Wellfield because of the increases in technology of petroleum storage tanks that have been made safer over time.
3. The most desirable use for which the land in each district is adopted - The most desirable use for the property is commercial given that it is located at the hard corner of two heavily travelled roadways. The proposed change to filling station commercial is desirable given that there is already a fueling station convenience store located at the northwest corner of the intersection.
4. The conservation of property values throughout the jurisdiction - The most impacted properties from the proposed change are the existing single family homes in close proximity to the site. The proposed change is consistent with the continued change to commercial rather than residential uses in the area. Provided the proposed development includes landscaping and buffering consistent with the City's development standards while still allowing for access easements connecting to adjacent properties, the existing residential value should be reasonably conserved while still potentially allowing for the future conversion/higher value of commercial development in the future.
5. Responsible development and growth - The proposed change to filling station commercial is responsible development and growth because there is an existing fueling station on the northwest corner of the intersection. The proposed change to allow for a filling station is appropriate despite that the site is located within the 1-year time of travel for the recently completed Juday Creek Municipal Wellfield. We believe that the underground storage tanks holding large volumes of petroleum products does not pose a substantial risk to the Juday Creek Wellfield because of the increases in technology of petroleum storage tanks that have been made safer over time.

Proposed Ordinance No: 2024-08

Ordinance No: _____

Section 3. This Ordinance shall be in full force and effect from and after its passage, due attestation and legal publication.

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of _____, 2024, at _____ o'clock _____.M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____, 2024, at _____ o'clock _____.M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2024, at _____ o'clock _____.M.

David A. Wood, Mayor



WWW.KRIEGDEVAULT.COM

May 14, 2024

Stephen A. Studer
Direct Dial: (574) 277-1207
E-mail: sstuder@kdlegal.com

SENT BY EMAIL

rboston@mishawaka.in.gov

Attn: Members of Council
City of Mishawaka
Planning Department 100
Lincolnway West
Mishawaka, IN 46544
Phone: 574-258-1625

Deborah S. Block, WMC, MMC

MAY 14 2024

City Clerk
Mishawaka, IN

Re: Mishawaka Plan Commission Recommendation
Petition #24-05 – To rezone from C-1 General Commercial to C-10 Filling
Station Commercial to allow for the construction of a Casey's General Store – a
convenience store and gas station business

Dear Members of the Common Council:

We are contacting you to formally request a postponement of the meeting for consideration of request scheduled for **Monday, May 20, 2024 at 6:00pm**. We ask that the meeting be moved to **Monday, June 17, 2024 at 6:00pm**.

Should you have any questions or concerns regarding this matter, please contact me or my assistant, Mary Brown (574-277-1200).

Thank you for your assistance.

Very truly yours,

Stephen A. Studer

SAS/mkb
Enclosure

STAFF REPORT

Location: Southeast corner of E Douglas Rd and Fir Rd

Date: April 9, 2024

Petition: 24- 05

Prepared By: SA/KP

GENERAL INFORMATION

Applicant: SEC Investments LLC / Kimley-Horn & Associates, Inc.

Status: Property Owner / Civil Engineering Consultant

Request: To rezone from C-1 General Commercial to C-10 Filling Station Commercial to allow for the construction of a Casey's General Store- a convenience store and gas station business.

Zoning Classification: C-1 General Commercial District

Lot Size: 2.3 acres

Applicable Regulations: Section 137-529 to 137-530 C-10 Filling Station Commercial / Amendments to the Zoning Map, Indiana Code 36-7-4-603

SPECIAL INFORMATION

Area Development Pattern: North: S-2 Planned Unit Development (Vacant Land)
South: Unincorporated Saint Joseph County (Vacant)
East: Unincorporated Saint Joseph County (Residential)
West: Unincorporated Saint Joseph County (Residential) & C-8 High Density Suburban Commercial

Thoroughfare: E. Douglas Rd. & Fir Rd.

Council District: 5

School District: Penn-Harris-Madison

Township: Penn

Public Utilities: All utilities are available and will be connected to/throughout the site at the expense of the developer

Comprehensive Plan: On the Capital Avenue Land Use Plan from 2003 the site was identified as existing residential and not guided for future development. The home(s) previously located on the property were subsequently demolished or will be demolished as part of the proposed change in use. The undeveloped area south and east of the site behind the existing residential was guided for office park and medium density residential uses.

ANALYSIS

The Petitioner, SEC Investments LLC, is requesting to rezone from C-1 General Commercial to C-10 Filling Station Commercial (3) three parcels containing approximately 2.3 acres of land. Located on the

southeast corner of the intersection of Douglas and Fir Roads. The (3) three parcels consists of 15022 Douglas Road (027-1078-204901) vacant house, 5328 North Fir Road (027-1078-2050) vacant land, and (027-1078-204905) a vacant lot. Surrounded by S-2 Planned Unit Development to the north, C-8 High Density Suburban Commercial to the west, and unincorporated parts of Saint Joseph County to the south, east, and west.

Over the past year, staff has communicated with the applicant's consultants multiple times and indicated that staff would be recommending denial of the proposed request. The request is very similar in scope to the Family Express located at the northwest corner of the same intersection that was annexed and zoned for a fueling station in 2015. The sole reason for the recommended denial is the presence of the City's recently completed Juday Creek Wellfield and the need to protect the public water supply long-term. The concept of placing the wellfield on the Juday Creek Golf Course was approved by the Council and Redevelopment Commission in 2016 following the approval of the Family Express. For the last 8 years the City has been working on the design and construction of not only the wellfield and filtration plant, but the many construction projects required to implement this massive piece of public infrastructure that we envision will serve the City for the next 100 years.

Staff is recommending denial of the proposed change in zoning because the site is located within the 1-year time of travel of the wellfield. We could recommend restrictions outside of the 1-year time of travel as well, and the proposed location within the 1-year time of travel represents the seriousness of the risk to the wellfield.

For general reference- time of travel means the time required for groundwater to move through the water bearing zone from a specific point to a well. In layman terms, the 1-year time of travel is the area in which it would take a molecule of water/liquid contaminants 1 year or less to reach the well. The City continues to work to make sure the entire area around the wellfield area is managed to protect our drinking water supply from viral, microbial, and direct chemical contamination.

As identified previously, when the wellfield property was purchased, the Family Express located at the northwest corner of the intersection of Fir Road and Douglas Road, which is currently located within the 1-year time of travel, had already been approved. In investigating potential locations for the wellfield, the City took into consideration all the known risks associated with placing the wellfield. Attached to this staff report is a map that identifies the one year time of travel and the various known risk factors that surround the wellfield. One of the reasons of the location chosen was that by placing the wells in the golf course, it naturally provides an area of control and protection around the wells. Just because there are existing risk factors, does not mean that more risk factors should be added, even if the additional risk is relatively small.

The total area of the one year time of travel is about 450 acres. This is a relatively large area for a City to place with no potential risks. That being said, each new development that has been proposed and approved in or adjacent to the 1-year time of travel since the approval of the wellfield in 2016 has had restrictions placed on the approval that reflect the location of the wellfield.

When the City purchased the Juday Creek Golf course, and then leased the property back to the previous owner for their continued use and operation, the following provisions were placed that restricted the use of chemicals and fertilizers on the golf course:

As part of the on-going ordinary maintenance, the Seller/Lessee shall adhere to all of the City's existing requirements and future requirements by state and federal agencies solely for the operation of the City's proposed municipal wellfield. As to Seller/Lessee's ongoing ordinary maintenance, Seller/Lessee would, pursuant to City instructions, use only those chemicals and fertilizers approved by the City. Seller/Lessee would not install any new wells for irrigation purposes, unless approved and consented to by the City. Any restriction of existing storm water areas of any storm or any storm water retention areas later created on the leased parcel by Seller/Lessee would be reviewed and be subject to the prior approval of the Buyer/Lessor. It is understood that the operation of the City's proposed municipal wellfield may, from time to time, change based upon then state and federal regulations which the parties acknowledge may be more restrictive over time. If the restrictions, federal or state, substantially restrict with Seller/Lessee's usual and normal operations of its golf

course, Seller/Lessee may, at its option, terminate this lease and any prepaid rental payments shall be refunded by the City to the Seller/Lessee.

When a portion the Penn Farm property was purchased for potential wellfield use, the following restrictions were placed over the entire Penn Farm as part of the buy-sell agreement with the City. Underground tanks are specifically prohibited as part of the restrictive covenants of the business park.

The Seller agrees to prepare and record covenants and restrictions over the Sellers property to create an association or other entity to provide for the perpetual maintenance of public improvements, as well as, create limitations on the use of the property that are consistent with the Buyer's desire to create a municipal wellfield adjacent to the site. Specifically, the Seller shall prohibit the use of underground fuel storage tanks, restrict the type of fertilizers and chemicals that can be stored or used on the property, prohibit the construction of new wells on the property, limit the means and methods of storm water retention, and otherwise identify that the all applicable requirements of the City, State, and Federal governments relating to well head protection, as may be modified over time, shall be complied with in full.

Also, as part of the proposed Auto Mall property located north of Cleveland Road, West of Capital, located outside the 1-year time of travel, a condition was placed that specifically prohibits Filling stations from being constructed on the property. This property is outside of the 1-year time of travel, but still in reasonably close proximity to the wellfield.

All of these development sites are also restricted on how stormwater is retained. No new drywells or underground percolation system is permitted to be used within these developments in close proximity to the wellfield.

Staff also acknowledges that vast improvements have been made to fuel underground storage containment systems over time and the current known risks are relatively low. Double wall tanks with an internal sensor are now an industry standard. That being said, environmental standards used for drinking water are getting more and more restrictive over time. There is also no accounting for human error or accidents that have the potential to occur over time that should be considered when considering this rezoning request.

To this end, the City already has experienced the impact of faulty storage tanks can have on a City Municipal Wellfield. There used to be municipal wells at Ward Baker Park which had to be closed as a result of leaking fuel tanks at the intersection of 12th and Byrkit. In 2008, the City received 8.15 million dollars from a class action settlement concerning the use of Methyl tert-butyl ether (MTBE) which is a flammable liquid that had been used as an additive for unleaded gasoline since the 1980s. MTBE increases octane and oxygen levels in gasoline and reduces pollution emissions. MTBE spread more easily underground than other gasoline components due to its higher solubility in water. Legislation passed in 2005 then prompted gasoline refiners to replace MTBE with ethanol. Staff brought this history up not because of a specific chemical, but as an indication of how circumstances and standards change over time. When the tanks were originally installed at the Fir/Byrkit fueling stations we are reasonably confident that the tanks met an industry standard at the time. Our understanding is that chemicals and additives also continue to evolve over time, but again, when MTBE was introduced, it was done so with the best of intentions. What is the next chemical, hazard, industry standard that is going to change that might have a causal relationship to our ability to provide clean and safe drinking water?

Staff also has a concern regarding precedent should this request ultimately be approved. If the Penn family was approached to allow a convenience store/fueling station at the intersection of Veteran's Parkway and Douglas Road, should the City allow the change in their covenants and zoning to allow it, given that is approximately the same distance from the wells as the proposed Casey's General store? This intersection will likely be a prime potential location for this type of use because this intersection will likely be signaled. With the Mishawaka Fieldhouse regional recreation facility going in, there will be a steady stream of potential customers that will be using Veteran's Parkway.

Note, the burden is on the applicant relative to this request. There is no inherent right to place a fueling station on this site. The site is currently zoned C-1 Commercial which permits a wide range of commercial uses by right including a drug store, restaurant, banks, medical clinic, hotels and many more. A convenience store could also be constructed by right on the property without fueling. Staff would also potentially support a rezoning request for drive-thru uses for this prime corner location. In short, the

reasonable use of the property is not being denied or hindered. Our singular focus is to insure the long term operation of the wellfield which has taken close to 8 years to plan and develop at a total cost of over 40 million dollars.

Although staff is recommending denial solely on the basis of the wellfield, there are also other site plan and logistical factors that will need to be worked out should the proposed change in zoning be approved.

The site is located on a hard corner in a location that was formerly residential. It is important that the adjacent properties to the east and south are both properly screened while also still allowing for the future redevelopment of those properties for commercial purposes over time. Cross access easements will need to be provided to both the east and south. If and when those properties are developed as commercial, they would then have the ability to remove screening and buffering and connect to the existing access points proposed at Casey's. We feel that this would also be beneficial for Casey's. Knowing that the traffic on both Douglas Road and Fir Road will increase over time, the stacking at the intersection and the proximity of the proposed drives to the intersection could make certain turning movements more difficult during peak traffic times. Having cross access where turning movements can potential be made further from the intersection could aid in safely moving traffic.

The concept site plan, although acceptable for rezoning purposes, does not identify important elements such as the minimum commercial landscaping required in conjunction with the development of the property. Landscaping and using full cut off fixtures for site lighting, exterior building lighting, and under canopy lighting will be important given the adjacent residential uses.

Juday Creek is located adjacent to the site and the drainage structure conveying it actually goes southwest through the middle of the intersection of Douglas and Fir. The Casey's site is currently located in area identified as flood fringe and as such the finished floor of the building and fueling locations will need to be raised to two feet above the hundred year flood elevation. Casey's consultants have this information and we believe the site can be raised without issue.

The Engineering Department has also recommended denial of the request. They commented that the applicant neglected to state how they plan to merge well head protection requirements as previously discussed on multiple occasions. They also identified that a traffic impact study has not been presented, although it would be more appropriate to follow with such a study following the rezoning of the property if it is approved. Engineering also indicated that the developer will need to identify what improvements are necessary to retain current levels of service for both Fir and Douglas Roads. Engineering identified that a minimum dedicated right turn lane and left turn lane for Fir Road will be required. A sidewalk/pathway will need to be constructed on both Fir Road and Douglas Road frontage. Left turn lane on Fir Road will need to be modified as it appears the thru lane is pushed to this proposed movement.

The Electric Department commented that they will need to discuss electric service needs with the contractor prior to construction. One of the parcels 15022 Douglas Road (027-1078-204901) is currently serviced by AEP.

RECOMMENDATION

We have been asked by the Council on known contested requests to prepare findings both for and against the petition. As such, the staff recommendation for denial is listed first. Findings for approval, which is not recommended is listed second.

Staff recommends against Petition 24-05 to rezone 2.3 acres of property located at the southeast corner of Douglas and Fir Roads from C-1 General Commercial to C-10 Filling Station Commercial for a proposed Casey's convenience store and gas station business and that it be forwarded to the Common Council with a **unfavorable** recommendation. This recommendation is based on the following findings of fact per Indiana Code Section 36-7-4-603 which requires both the Planning Commission and Common Council as the Legislative Body of the City pay reasonable regard to the following:

1. The applicable Comprehensive Plan is from the Capital Avenue Land Use Plan that was done jointly with St. Joseph County- the site was identified as existing residential because of the homes that

existed on the properties at the time and the site was not guided for future development. The home(s) previously located on the property were subsequently demolished or will be demolished as part of the proposed change in use. The undeveloped area south and east of the site behind the existing residential was guided for office park and medium density residential uses. As such, if it were not for the extenuating factors associated with the City wellfield the higher intensity commercial use of a convenience store/filling station is reasonably consistent with the comprehensive plan.

2. Current conditions and the character of current structures and uses in each district – The current conditions warrant the existing commercial zoning that exists for the property being located at the hard corner of two heavily travelled roadways. The proposed change to allow for a filling station is not appropriate given that the site is located within the 1-year time of travel for the recently completed Juday Creek Municipal Wellfield. Underground storage tanks holding large volumes of petroleum products, despite the increases made in the technology still poses a potential risk to the Juday Creek Wellfield.
 3. The most desirable use for which the land in each district is adopted – The most desirable use for the property is commercial given that it is located at the hard corner of two heavily travelled roadways. The proposed change to filling station commercial is not desirable given that the site is located within the 1-year time of travel for the recently completed Juday Creek Municipal Wellfield. Underground storage tanks holding large volumes of petroleum products, despite the increases made in the technology still poses a potential risk to the Juday Creek Wellfield.
 4. The conservation of property values throughout the jurisdiction – The most impacted properties from the proposed change are the existing single family homes in close proximity to the site. The proposed change is consistent with the continued change to commercial rather than residential uses in the area. Provided the proposed development includes landscaping and buffering consistent with the City's development standards while still allowing for access easements connecting to adjacent properties, the existing residential value should be reasonably conserved while still potentially allowing for the future conversion/higher value of commercial development in the future.
 5. Responsible development and growth – The proposed change to filling station commercial is not desirable given that the site is located within the 1-year time of travel for the recently completed Juday Creek Municipal Wellfield. Underground storage tanks holding large volumes of petroleum products, despite the increases made in the technology still poses a potential risk to the Juday Creek Wellfield.
-

The following are findings for approval of Petition 24-05 to rezone 2.3 acres of property located at the southeast corner of Douglas and Fir Roads from C-1 General Commercial to C-10 Filling Station Commercial for a proposed Casey's convenience store and gas station business and it will be forwarded to the Common Council with a **favorable** recommendation. This recommendation is based on the following findings of fact per Indiana Code Section 36-7-4-603 which requires both the Planning Commission and Common Council as the Legislative Body of the City pay reasonable regard to the following:

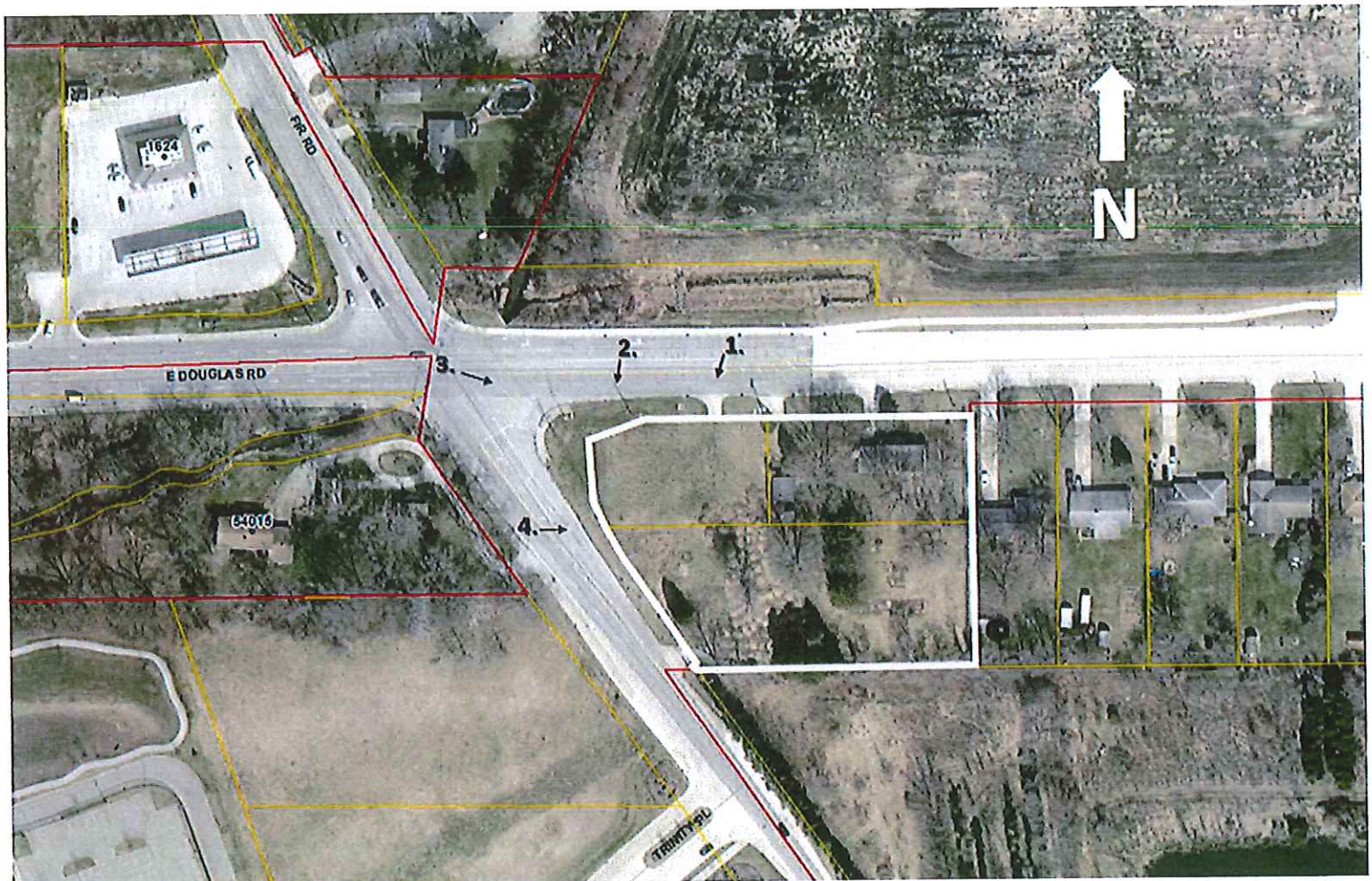
1. The applicable Comprehensive Plan is from the Capital Avenue Land Use Plan that was done jointly with St. Joseph County- the site was identified as existing residential and not guided for future development. The home(s) previously located on the property were subsequently demolished or will be demolished as part of the proposed change in use. The undeveloped area south and east of the site behind the existing residential was guided for office park and medium density residential uses. As such, the higher intensity commercial use of a convenience store/filling station is reasonably consistent with the comprehensive plan.
2. Current conditions and the character of current structures and uses in each district – The current conditions warrant the existing commercial zoning that exists for the property being located at the hard corner of two heavily travelled roadways. The proposed change to allow for a filling station is appropriate despite that the site is located within the 1-year time of travel for the recently completed Juday Creek Municipal Wellfield. We believe that the underground storage tanks holding large volumes of petroleum products does not pose a substantial risk to the Juday Creek Wellfield because of the increases in technology of petroleum storage tanks that have been made safer over time.
3. The most desirable use for which the land in each district is adopted – The most desirable use for the property is commercial given that it is located at the hard corner of two heavily travelled

roadways. The proposed change to filling station commercial is desirable given that there is already a fueling station convenience store located at the northwest corner of the intersection.

4. The conservation of property values throughout the jurisdiction – The most impacted properties from the proposed change are the existing single family homes in close proximity to the site. The proposed change is consistent with the continued change to commercial rather than residential uses in the area. Provided the proposed development includes landscaping and buffering consistent with the City's development standards while still allowing for access easements connecting to adjacent properties, the existing residential value should be reasonably conserved while still potentially allowing for the future conversion/higher value of commercial development in the future.
5. Responsible development and growth - The proposed change to filling station commercial is responsible development and growth because there is an existing fueling station on the northwest corner of the intersection. The proposed change to allow for a filling station is appropriate despite that the site is located within the 1-year time of travel for the recently completed Juday Creek Municipal Wellfield. We believe that the underground storage tanks holding large volumes of petroleum products does not pose a substantial risk to the Juday Creek Wellfield because of the increases in technology of petroleum storage tanks that have been made safer over time.

ATTACHMENTS

Aerial Photograph, Site Photographs, Wellfield Map, Petition, Site Plan, Location Map



Aerial Photograph



1. South facing from Douglas Rd



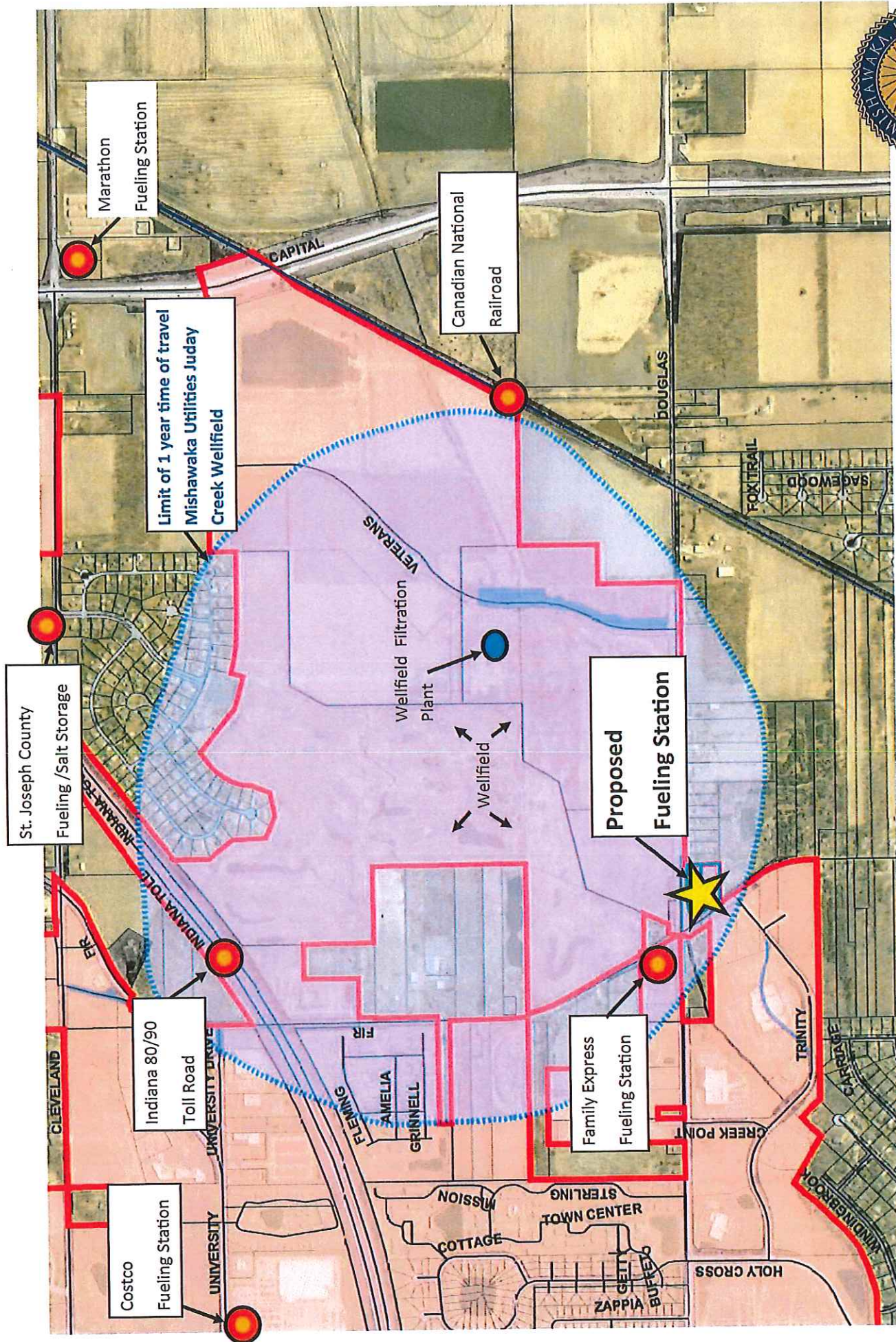
2. Southwest facing from Douglas Rd



3. Southeast facing from Fir Rd



4. East facing from Fir Rd



Mishawaka Utilities Water Division
Juday Creek Wellfield 1 year time of travel

Known existing risk factor
Juday Creek wellfield



Honorable Members of the
Common Council
City of Mishawaka, Indiana
And
Mishawaka City Plan Commission
City of Mishawaka, Indiana



RE: Petition to Rezone 3 Total Parcels (15022 Douglas Road, 5328 N Fir Road, and vacant)

The undersigned, SEC Investments LLC, ("Petitioner") is the owner of three (3) parcels of land containing approximately 2.3 acres located on the southeast corner of the intersection of Douglas and Fir Roads, Mishawaka, St. Joseph County, Indiana and further described by the legal description attached hereto as EXHIBIT "A".

The Petitioner owns one hundred (100%) percent of the above described 3 parcels of land which are currently zoned C-1 General Commercial District in the city of Mishawaka. Said real estate is improved with a vacant single family dwelling unit in addition to a detached garage and shed.

The Petitioner desires said real estate to be rezoned to C-10 Filling Station District in the city of Mishawaka. The Petitioner further states that it intends to utilize said land for the development of a proposed convenience store and gas station.

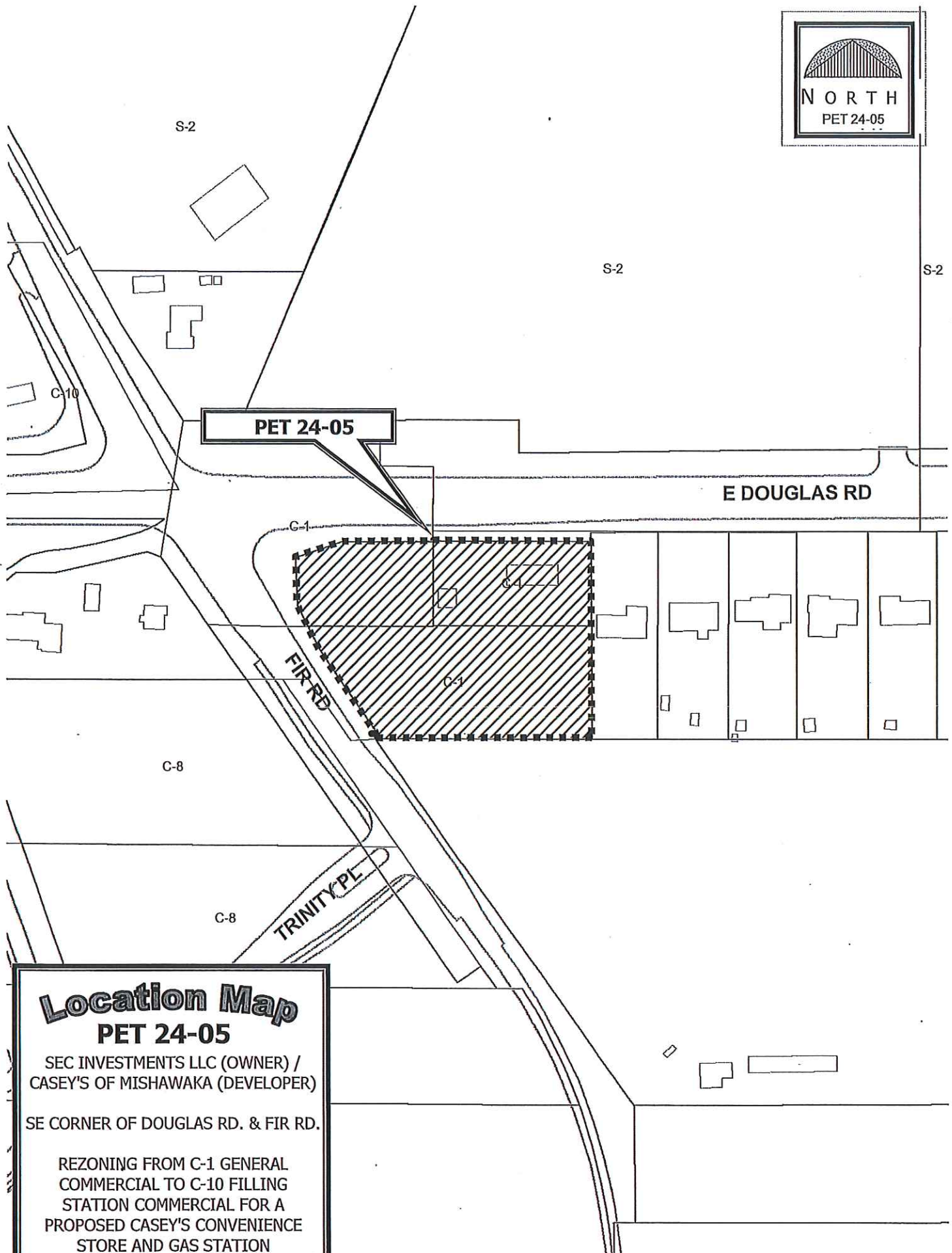
Wherefore, the Petitioner respectfully requests that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted rezoning the above described parcels of land in the City of Mishawaka.

PETITIONER: SEC INVESTMENTS, LLC

By: Stephen R. Murphy 3/19/24
Stephen R. Murphy Date
Member

Contact Person:

Name: Connor Strege, PE – Kimley-Horn & Associates, Inc.
Address: 500 East 96th Street, Suite 300, Indianapolis, IN 46240
Phone Number: (317) 218-9465
Email: connor.strege@kimley-horn.com



Location Map PET 24-05

SEC INVESTMENTS LLC (OWNER) /
CASEY'S OF MISHAWAKA (DEVELOPER)

SE CORNER OF DOUGLAS RD. & FIR RD.

REZONING FROM C-1 GENERAL
COMMERCIAL TO C-10 FILLING
STATION COMMERCIAL FOR A
PROPOSED CASEY'S CONVENIENCE
STORE AND GAS STATION

MAY 29 2024

City Clerk
Mishawaka, IN

PROPOSED ORDINANCE NO. 2024 -14

ORDINANCE NO. _____

AN ORDINANCE TRANSFERRING FUNDS FROM THE
MOTOR VEHICLE HIGHWAY RESTRICTED FUND OF THE
CITY OF MISHAWAKA TO THE LOCAL ROAD & BRIDGE
MATCHING GRANT FUND OF THE CITY OF MISHAWAKA
FOR THE CALENDAR YEAR ENDING DECEMBER 31, 2024
AND AN ORDINANCE APPROPRIATING ADDITIONAL
FUNDS FOR THE YEAR ENDING DECEMBER 31, 2024

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE
CITY OF MISHAWAKA, INDIANA, THAT:

Section 1. There is hereby transferred from the Motor Vehicle Highway Restricted
(MVHR) Fund of the City of Mishawaka to the Local Road & Bridge Matching Grant Fund of
the City of Mishawaka the sum of \$979,500.00 as required for the Community Crossing
Grant.

Motor Vehicle Highway Restricted Fund (MVHR)

From:

Capital Outlays

2203-50-442-01

Street Repair

\$979,500.00

Local Bridge and Road Matching Grant Fund

To:

Other Services and Charges

2404-50-436-03

Street Repair

\$979,500.00

Section 2. Which requires the appropriation of additional funds for the fiscal year
ending December 31, 2024, in addition to that set out in detail in the published budget.

Section 3. There is hereby appropriated from the Local Bridge and Road
Matching Grant Fund of the City of Mishawaka the sum of \$1,959,000.00 for assignment as
follows:

Local Road & Bridge Matching Grant Fund

Other Services and Charges

2404-50-436-03

Street Repair

\$1,959,000.00

Section 4. This Ordinance shall be in full force and effect from and after its passage, signing and attestation.

PASSED BY THE COMMON COUNCIL of the City of Mishawaka, Indiana

on this _____ day of _____, 2024 at _____

o'clock, _____. M.

Gregg Hixenbaugh, President

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED BY ME to the Mayor of the City of Mishawaka, Indiana

on this _____ day of _____, 2024 at _____

o'clock, _____. M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED BY ME this _____ day of _____, 2024 at

_____ o'clock, _____. M.

David A. Wood, Mayor



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF FINANCE
Rebecca S. Maguire, Controller
Kayla Yoder, Deputy Controller

Deborah S. Block, IAMC, MMC

MAY 29 2024

City Clerk
Mishawaka, IN

Date: June 3, 2024
To: Honorable Members of the Common Council
From: Rebecca Maguire

Re: Transfer from MVH Restricted and Additional Appropriation Local Road
& Bridge Matching Fund

I am requesting on first reading, approval for the transfer of \$979,500.00 from the Motor Vehicle Highway Restricted Fund to the Local Road & Bridge Matching Grant Fund as this is our necessary match for the Community Crossings Grant. These funds are budgeted funds for the purpose of the match and are funded from MVH funds received from the State.

This transfer along with the \$979,500.00 grant already received from the State must be appropriated. Therefore, I am also requesting approval of the additional appropriation for a total of \$1,959,000.00.

This ordinance allows for both the transfer and appropriation and is required every year to show proper accounting of the grant and match.

Thank you for your consideration. Please contact me with any questions.

c: David A. Wood, Mayor
Christine Jamrose, City Engineer/Director

MAY 29 2024

City Clerk
Mishawaka, IN

PROPOSED ORDINANCE NO. 2024-15

ORDINANCE NO. _____

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA
AUTHORIZING THE INVESTMENT OF PUBLIC FUNDS
PURSUANT TO IC 5-13-9-5**

Whereas, the City of Mishawaka (the "City") desires pursuant to IC 5-13-9-5 to allow banks outside the political subdivision to submit quotes on public funds certificates of deposit for the purpose of investing its operating and utility funds;

Section 1. Now, therefore, pursuant to IC 5-13-9-5, the Common Council of the City of Mishawaka hereby authorizes the investing officer of the City to invest in certificates of deposit of depositories that have been designated by the state board of finance as a depository for state deposits under IC 5-13-9.5. This authorization expires one (1) year after the adoption date.

Section 2. This ordinance shall be in full force and effect from and after its passage, signing and attestation.

PASSED BY THE COMMON COUNCIL of the City of Mishawaka, Indiana

On this _____ day of _____, 2024 at _____ o'clock, _____. M.

Gregg Hixenbaugh, Presiding Officer

ATTEST:

Deborah S. Block, IAMCA, MMC, City Clerk

PRESENTED BY ME to the Mayor of the City of Mishawaka, Indiana

on this _____ day of _____, 2024 at _____ o'clock, _____. M.

Deborah S. Block, IAMCA, MMC, City Clerk

APPROVED BY ME this _____ day of _____, 2024 at

o'clock, _____. M.

David A. Wood, Mayor



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF FINANCE
Rebecca S. Maguire, Controller
Kayla Yoder, Deputy Controller

Deborah S. Block, AMC, MMC

MAY 29 2024

City Clerk
Mishawaka, IN

Date: June 3, 2024
To: Honorable Members of the Common Council
From: Rebecca Maguire
Re: Investment of Public Funds

For the June 3rd meeting I am requesting first reading of the annual investment ordinance that is required by statute.

This ordinance is renewed annually and authorizes the City of Mishawaka to invest outside of its political subdivision.

We use Baker Tilly to manage our investment process and it's been very successful. With numerous outstanding bonds, having them manage bidding, timelines, and documentation is invaluable to increase revenue while our projects are being completed. We also invest funds where we have available cash balances.

You may recall we have other statutory investment ordinances. Two others are on four-year terms and were renewed last year.

Please contact me with any questions.

c: David A. Wood, Mayor

PROPOSED ORDINANCE NO. 2024-16

ORDINANCE NO. _____

AN ORDINANCE DECLARING AN EMERGENCY AND
DETERMINING THE EXPENDITURE OF ADDITIONAL
FUNDS FOR THE YEAR ENDING DECEMBER 31, 2024

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF MISHAWAKA
INDIANA, THAT:

Section 1. An emergency exists which requires the appropriation of additional funds for the fiscal year ending December 31, 2024, in addition to that set out in detail in the published budget.

Section 2. There is hereby appropriated from the American Rescue Plan Coronavirus Local Fiscal Recovery Grant fund in the sum of \$2,000,000.00 for assignment as follows:

ARP Coronavirus Local Fiscal Recovery Grant

Other Services and Charges

2403-50-439-05

Grants and Subsidies

\$2,000,000.00

Section 3. This Ordinance shall be in full force and effect from and after its passage, signing, and attestation.

PASSED BY THE COMMON COUNCIL of the City of Mishawaka, Indiana

on this _____ day of _____, 2024 at _____

o'clock, _____. M.

Gregg Hixenbaugh, President

ATTEST:

Deborah S. Block, IAMCA, MMC, City Clerk

PRESENTED BY ME to the Mayor of the City of Mishawaka, Indiana
on this _____ day of _____, 2024 at _____
o'clock, _____. M.

Deborah S. Block, IAMCA, MMC, City Clerk

APPROVED BY ME this _____ day of _____, 2024 at
_____ o'clock, _____. M.

David A. Wood, Mayor